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ABSTRACT

This hearing focuses on the discretionary programs of the Education of the Handicapped Act, which cover research, technical assistance, information dissemination, personnel training, and model demonstration projects and activities. The testimony focuses on the significant percentage of disabled minority-group students not receiving special education services and the role of social workers in school systems. Some of the testimony relates specifically to the situation in New York's schools. The hearing document contains statements and supplemental materials from representatives of the United Federation of Teachers; New York State Education Department, Office for Education of Children with Handicapping Conditions; Deaf Enterprises, Inc.; National Association of Social Workers; Advocates for African-American Children; and the Agency for Child Development. (JDD)

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EC

HEARING ON THE REAUTHORIZATION OF EHA DISCRETIONARY PROGRAMS

ED330178

HEARING

BEFORE THE

SUBCOMMITTEE ON SELECT EDUCATION

OF THE

COMMITTEE ON EDUCATION AND LABOR
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

HEARING HELD IN NEW YORK, NY, MARCH 26, 1990

Serial No. 101-110

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HEARING ON PUBLIC LAW 94-142, REAUTHORIZATION OF EHA DISCRETIONARY PROGRAMS

MONDAY, MARCH 26, 1990

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON SELECT EDUCATION,
COMMITTEE ON EDUCATION AND LABOR,
New York, NY.

The subcommittee met, pursuant to notice, at 2:35 p.m., New York, NY, Hon. Major R. Owens, [Chairman] presiding.

Members present: Representatives Owens and Payne.

Staff present: Patricia Laird, Wanser Green, Pearl Fields, Alan Lovesee, and Sally Lovejoy.

Chairman OWENS. The hearing of the Subcommittee on Select Education of the Education and Labor Committee is now in order. We apologize for the late start. The traffic has caused a problem for not only my colleague Mr. Payne, but also for one of our first witnesses, Ms. Feldman. We are going to proceed without her, when she arrives, we will put her on at that time.

This is a hearing to focus on the discretionary programs under the Education of the Handicapped Act. Beyond the Education of the Handicapped Act, we are in a period now where we look forward to the enactment of the Americans with Disabilities Act. The Americans with Disabilities Act is the civil rights legislation which will include the people who were left out. It will be a monumental new step forward for 43 million Americans who suffer from various kinds of disabilities.

The members of the disability community have felt it was very important to show their struggle and their fight for this new legislation within the context of the total civil rights movement.

During the first hearing on the Americans with Disabilities Act, conducted by this subcommittee, Jesse Jackson was the lead off witness to firmly make the bond between people with disabilities and persons covered by other portions of the civil rights actions. It is not surprising then that as we consider the reauthorization of the discretionary programs, we focused on some of the problems within the discretionary programs which relate to the problem of discrimination. We don't think that the disability community, by design, has left out large numbers of minorities, but that is a fact. When we examine the projects funded by the discretionary programs, there is a problem. When we look at the problem within the context of the total amount of funding for the Education of the Handicapped Act—it seems small. We are talking today about discretionary programs which, in funding size at present are funded

for about $181 million. The overall budget, the overall present appropriation, is $1.6 million—$1.6 million is, of course, far below the goal that was originally set when the Act was first passed by Congress. That $1.6 billion—I'm sorry, billion—$1.6 billion—the $181 million is an add on to the $1.6 billion. The appropriation at present funds only about 8 percent of the excess cost for the Education of the Handicapped Act. The original Act had a goal of 40 percent. The Federal Government wanted to fund 40 percent of the total cost, so we are a long way from that 40 percent funding at this point.

I think all of us can see the importance of this Act and this particular program of the Federal Government, when you look at the problems faced by our local and state education agencies, and we contemplate the kind of cutbacks and the kind of funding squeeze that the localities and the states are in. Here is one area where the Federal Government could go forward. If it just lived up to its original intentions and funded the Act as it originally intended at 40 percent, it would greatly relieve the burden on the states and the localities. While there is a great deal of debate about what else the Federal Government should do in education and, of course, our President has proclaimed himself the education president, we think that we should stress the fact that there are numerous areas where programs do work, programs are in existence, and the Federal Government has not lived up to its original intent or original promise. Just take the first step and fund the programs that do work. Take the first step and fund the programs up to the original intent of the legislation, and it will greatly ease the burdens on localities and states.

Just as Pub. L. 94-142 recognizes the right of every individual with a disability to have an equal educational opportunity, the discretionary programs were created to support and improve the provision of educational and related services to children with disabilities. Central to these programs that we are considering today are research, technical assistance, information dissemination, personnel training, and model demonstration projects and activities. The design of the discretionary programs which are Parts C-G of the Act provides the framework for exploring the ways to best serve every child and youth with disabilities in our public schools and other settings.

It must be our responsibility to fully consider the needs of our constituencies when bills are being reauthorized. Therefore, the following changes which will have a major impact on the discretionary programs, are driven by the need to include and provide services for all children with disabilities:

To counter the inequitable distribution of funds and the lack of adequate representation by minority groups and individuals in the special education service delivery system, provisions have been inserted requiring the Department of Education to establish priorities for awarding grants and contracts to minorities, to provide technical assistance to minority groups or other institutions seeking Federal funding to implement these programs. The bill provides a 10 percent set aside for minority teacher training at predominantly minority institutions of higher education. Additionally,

boards and review panels will be required to have the representation of minorities and individuals with disabilities.

I might add that we have also gone so far as to define minority servicing institutions. Any institutions with 25 percent or more of minorities would qualify for the 10 percent set aside as well.

As part of the model demonstration projects, we have established an ombudsman program to facilitate the settlement of problems that are barriers to the delivery of special education services, and to curtail the emotional, fiscal and temporal costs to both parents and children who are anxious to achieve equitable services. This is a model program which has its roots in the New York City Advocacy Program which was so successful during the early 1980's.

It is important to continue to support the successful transition of youth with disabilities from secondary school programs to postsecondary programs or employment and independent living. To further this goal, we have included authorization for demonstration models in the area of assistive technology and statewide system change projects involving the state education agency and the state vocational rehabilitation agency. We cannot ensure that these new system change projects will assure consistent quality and success in the delivery of transition services nationally unless we build on the knowledge base of our past five years' experience and incorporate those components that characterize successful transition programs.

For many of our children with disabilities, the memory of physical punishment is still vivid, and across the country our services have shown us that it is a wide spread practice. The visible scars may have healed but those who have experienced such punishment, the psychological scars remain. I find it abhorrent and medieval that the educational systems in so many parts of this country still utilize corporal punishment on children with and without disabilities. In an effort to eliminate this form of cruelty, I am proposing an amendment to the existing Education of the Handicapped Act which would ban the use of corporal punishment.

This subcommittee has responded to the need for change and reform by listening to a wide range of ideas and using an open process to draft bipartisan legislation. I look forward to a productive hearing in the same spirit as the hearings that we have conducted in several other communities and in Washington.

I would also like to note that we are aware of a particular problem that exists in New York State and New York City. At this particular time, we do want and we do hope our witnesses will go into more detail about the application of these programs in New York State. The Education of the Handicapped Act guarantees the right of all children with disabilities to an equal education, yet the disabled minorities, as I pointed out before, represent one-third of Americans totally with disabilities, and they are not adequately represented among the consumers for these programs.

According to a 1985 report issued by the New York State Office of Mental Retardation and Developmental Disabilities, although minorities constituted 25.12 percent of New York State's population, as indicated in the 1980 Census, they were vastly underserved. The State agency said further that of the 56,900 identified minority people in New York who were developmentally disabled, only 10,071 were receiving services. In New York City, which is home to

two-thirds of New York State's African-Americans, the agency estimated that 50.2 percent of the developmentally disabled African-Americans and 74.7 percent of developmentally disabled Latinos were not getting help.

In New York City and in New York State, there are no provider agencies expressly controlled by minorities. Many of the agencies and special schools are located outside predominantly minority areas.

We have a problem in terms of existing funding of existing programs, and we have sought to correct that problem in some of the amendments that we have placed in this Act. We have noticed that in some of the particular programs among the discretionary programs, such as the parent training centers, not only New York City but most of the large urban areas, high density areas with large minority populations, were bypassed. Parent training programs do not serve Los Angeles, Chicago or New York City. For that reason, we have authorized funds for five new demonstration centers to serve large numbers of special education students which are located in these high density areas. We also hope that the 10 percent set aside for the personnel training at colleges and universities will provide some additional minority teachers in these various kinds of programs.

[The prepared statement of Hon. Major R. Owens follows:]

OPENING STATEMENT OF HON. MAJOR R. OWENS, CHAIRMAN
HOUSE SUBCOMMITTEE ON SELECT EDUCATION
FIELD HEARING IN NEW YORK CITY
ON THE REAUTHORIZATION OF EHA DISCRETIONARY PROGRAMS
MARCH 26, 1990

JUST AS PL 94-142 RECOGNIZES THE RIGHT OF EVERY INDIVIDUAL WITH A DISABILITY TO HAVE AN EQUAL EDUCATIONAL OPPORTUNITY, THE DISCRETIONARY PROGRAMS WERE CREATED TO SUPPORT AND IMPROVE THE PROVISION OF EDUCATIONAL AND RELATED SERVICES TO CHILDREN WITH DISABILITIES. CENTRAL TO THESE PROGRAMS ARE RESEARCH, TECHNICAL ASSISTANCE, INFORMATION DISSEMINATION, PERSONNEL TRAINING, AND MODEL DEMONSTRATION PROJECTS AND ACTIVITIES. THE DESIGN OF THE DISCRETIONARY PROGRAMS, PARTS C-G, PROVIDES THE FRAMEWORK FOR EXPLORING WAYS TO BEST SERVE EVERY CHILD AND YOUTH WITH DISABILITIES IN OUR PUBLIC SCHOOLS AND OTHER SETTINGS.

IT MUST BE OUR RESPONSIBILITY TO FULLY CONSIDER THE NEEDS OF OUR CONSTITUENCIES WHEN BILLS ARE BEING REAUTHORIZED. THEREFORE, THE FOLLOWING CHANGES, WHICH WILL HAVE A MAJOR IMPACT ON THE DISCRETIONARY PROGRAMS, ARE DRIVEN BY THE NEED TO INCLUDE AND PROVIDE SERVICES FOR ALL CHILDREN WITH DISABILITIES:

- TO COUNTER THE INEQUITABLE DISTRIBUTION OF FUNDS AND LACK OF ADEQUATE REPRESENTATION BY MINORITY GROUPS AND INDIVIDUALS IN THE SPECIAL EDUCATION SERVICE DELIVERY SYSTEM, PROVISIONS HAVE BEEN INSERTED REQUIRING THE DEPARTMENT OF EDUCATION TO ESTABLISH PRIORITIES FOR AWARDING GRANTS AND CONTRACTS TO MINORITIES, TO

PROVIDE TECHNICAL ASSISTANCE TO MINORITY GROUPS, ORGANIZATIONS, OR INSTITUTIONS SEEKING FEDERAL FUNDING TO IMPLEMENT PROGRAMS. THE BILL PROVIDES A 10% SET-ASIDE FOR MINORITY TEACHER TRAINING AT PREDOMINANTLY MINORITY INSTITUTES OF HIGHER EDUCATION. ADDITIONALLY, BOARDS AND REVIEW PANELS WILL BE REQUIRED TO HAVE THE REPRESENTATION OF MINORITIES AND INDIVIDUALS WITH DISABILITIES.

- AS PART OF THE MODEL DEMONSTRATION PROJECTS, WE HAVE ESTABLISHED AN OMBUDSMAN PROGRAM TO FACILITATE THE SETTLEMENT OF PROBLEMS THAT ARE BARRIERS TO THE DELIVERY OF SPECIAL EDUCATION SERVICES, AND TO CURTAIL THE EMOTIONAL, FISCAL, AND TEMPORAL COSTS TO BOTH PARENTS AND CHILDREN ANXIOUS TO ACHIEVE EQUITABLE SERVICES. IT IS A MODEL THAT HAS ITS ROOTS IN THE NEW YORK CITY ADVOCACY PROGRAM SO SUCCESSFUL DURING THE EARLY 1980'S.

- IT IS IMPORTANT TO CONTINUE TO SUPPORT THE SUCCESSFUL TRANSITION OF YOUTH WITH DISABILITIES FROM SECONDARY SCHOOL PROGRAMS TO POST-SECONDARY PROGRAMS OR EMPLOYMENT AND INDEPENDENT LIVING. TO FURTHER THIS GOAL, WE HAVE INCLUDED AUTHORIZATION FOR (1) DEMONSTRATION MODELS IN THE AREA OF ASSISTIVE TECHNOLOGY AND (2) STATEWIDE SYSTEM CHANGE PROJECTS INVOLVING THE STATE EDUCATION AGENCY AND THE STATE VOCATIONAL REHABILITATION AGENCY. WE CANNOT ENSURE THAT THESE NEW SYSTEM CHANGE PROJECTS WILL ASSURE CONSISTENT QUALITY AND SUCCESS IN THE DELIVERY OF TRANSITION SERVICES NATIONALLY UNLESS WE BUILD ON THE KNOWLEDGE BASE OF OUR PAST FIVE YEARS' EXPERIENCE AND INCORPORATE THOSE COMPONENTS THAT CHARACTERIZE SUCCESSFUL TRANSITION PROGRAMS.

- FOR MANY OF OUR CHILDREN WITH DISABILITIES THE MEMORY OF PHYSICAL PUNISHMENT APPLIED BY A SCHOOL OFFICIAL IS STILL VIVID. THE VISIBLE SCARS MAY HAVE HEALED BUT THE PSYCHOLOGICAL SCARS REMAIN. I FIND IT ABHORRENT AND MEDIEVAL THAT THE EDUCATIONAL SYSTEMS IN SOME PARTS OF THIS COUNTREY STILL UTILIZE CORPORAL PUNISHMENT ON CHILDREN WITH AND WITHOUT DISABILITIES. IN AN EFFORT TO ELIMINATE THIS FORM OF CRUELTY, I AM PROPOSING AN AMENDMENT TO EHA WHICH WOULD BAN THE USE OF CORPORAL PUNISHMENT.

THIS SUBCOMMITTEE HAS RESPONDED TO THE NEED FOR CHANGE AND REFORM BY LISTENING TO A WIDE RANGE OF IDEAS AND USING AN OPEN PROCESS TO DRAFT BIPARTISAN LEGISLATION. I LOOK FORWARD TO A PRODUCTIVE HEARING.

Chairman OWENS. Before we proceed to the witnesses, I yield to my colleague Mr. Donald Payne from New Jersey for an opening statement.

Mr. PAYNE. Thank you very much Mr. Chairman. I certainly appreciate this opportunity to come to New York City to participate in this hearing.

Chairman OWENS. And wait in our traffic.

Mr. PAYNE. I'll tell you, we need to have another hearing dealing with transportation and get some of the subcommittees over here to see about what needs to be done, but I certainly apologize and realize that everyone is very busy and do not have time to waste. But next time when I hear that it is a 2:00 meeting I will come over the night before. On top of that, the cab driver had a bad day and that was a whole story in itself. He said there weren't many people here to take anywhere so that was why he was complaining about bringing me down. I told him his day would be a brighter day after I left, but anyway, it is good to be here. I would like to thank the Chairman for calling this important meeting so that we can have an opportunity to continue our dialogue on the reauthorization of discretionary programs under Pub. L. 94-142.

Since the enactment of the Education of the Handicapped Act, the lives of individuals with disabilities and their families have improved. Individuals with disabilities have benefited from greater educational opportunities then were afforded to them prior to the Act.

Further information on special education has become more accessible. Yet, despite the advances that have been made, there are still groups of individuals whose needs have not yet been met. These individuals include minorities and other underserved populations. The proposed new provisions of the discretionary programs recognize the current deficiencies and attempt to correct them. I am particularly interested in the provisions which would bring about greater minority participation and representation in special education. During the course of the hearings in Washington, DC, we heard compelling testimony from professionals in the field of special education. Many of the witnesses recognize that disabling conditions are overly represented in minority group populations; however, these populations are under-represented in service delivery systems as providers, professional staff and consumers as it has been very ably brought out by our Chairman.

I hope that during today's hearing we will be able to learn what is happening in this community with respect to the delivery of services, transition to postsecondary education and employment and professional involvement in representation of minorities. As a nation, we place ourselves at a disadvantage when we fail to recognize and develop the potential of all individuals within our society, including our disabled.

It is my hope that through this legislation we can open doors of hope and opportunity for many more individuals with disabilities so that we may ultimately benefit from their talents.

Once again, it is really a pleasure for me to be here and I look forward to listening to the witnesses. Thank you very much.

Chairman OWENS. Thank you. Our first witness is Mr. Tom Neveldine, Assistant Commissioner for Education of Children with

Handicapping Conditions, New York State Education Department. I think we have to update that—you received a new appointment? That's the new appointment, Assistant Commissioner. Please proceed Mr. Neveldine.

We have a copy of your testimony. You may read it if you wish but we have a copy so we would prefer for you to just elaborate on it. Proceed.

STATEMENT OF TOM NEVELDINE, ASSISTANT COMMISSIONER FOR EDUCATION OF CHILDREN WITH HANDICAPPING CONDITIONS, NEW YORK STATE EDUCATION DEPARTMENT, ALBANY, NY

Mr. NEVELDINE. Mr. Chairman, Congressman Payne, I appreciate the opportunity to address you today, on behalf of the State Education Department and the Board of Regents. The summarized testimony which you have been provided a full text for the record concerns the reauthorization of the Education of the Handicapped Act.

The Board of Regents and the State Education Department appreciate the considerable time, energy and thoughtfulness that members of the subcommittee have devoted to the reauthorization of the discretionary programs over the last year. The importance you place on this process has been equally evident in your efforts to sustain a dialogue with the field in examining alternative approaches for achieving desired improvements.

Today, the focus of my comments will be primarily on the major proposals contained in the draft bill prepared by the subcommittee. Before outlining our recommendations, however, I would like to briefly review some of the demographic information on our disabled children and youth and service delivery system and outline for you some principles which guide our activity at the state level to ensure the goals of the EHA are achieved.

Also, I want to reiterate some general recommendations previously addressed to you and to the Federal Government.

To begin, in terms of demographics, we have in New York State approximately 293,000 children and youth with handicapping conditions between the ages of three and twenty-one who are enrolled in the public school system. This represents about 9.3 percent of the total public school population.

A break down of these children and youth with disabilities reveals that less than one percent have been classified as autistic; 15.5 percent have been classified as emotionally disturbed; 60 percent have been classified as learning disabled; 7.7 percent have been classified as mentally retarded; less than one percent have been classified as deaf; less than one percent have been classified as hard of hearing; 8.9 percent have been classified as speech impaired and less than one percent have been classified as visually impaired; less than one percent for orthopedically impaired; less than one percent for other health impaired; and 3.7 have been classified as multi-handicapped.

There are 723 school districts in the State and services may be provided by the local school districts by Boards of Cooperative Educational Services, Special Act School Districts, non-public schools, approved private schools, State-supported or State-operated schools,

or by schools in other State agencies. We are fortunate to have such a wide range of options available to serve the disabled children and youth in our State.

At this point, I would like to overview for you some guiding principles for our State level activities.

First, all students with handicapping conditions should receive an education appropriate to their individual needs.

Second, all students with handicapping conditions should have access to the full range of services within school districts and a free appropriate public education in the least restrictive environment.

Third, students with handicapping conditions should be the responsibility of all decision-makers within a district, and not just the responsibility of special education administrators.

Fourth, the majority of students with handicapping conditions have the capability to obtain diploma credentials with the assistance of high quality special ed services.

Fifth, we must ensure that expanded and improved special ed programs and related support services are cooperatively provided by a variety of appropriate agencies to special groups of children with handicapping conditions and youth. These special groups include children below the age of five who may benefit from special ed and related services; children with severe handicapping conditions who require extraordinary services not typically provided by the public system; children of low income, minority and non-English speaking populations who also have handicapping conditions; unemployed or underemployed handicapped youth who are not of compulsory school age and who have dropped out of school; and troubled youth, neglected, delinquent, and youth in jails, who have handicapping conditions.

Sixth and finally, students with handicapping conditions should be provided high quality educational programs that lead to a high school diploma, meaningful employment, postsecondary education plans, independent living, and a smooth transition to adult services.

I mentioned there were some areas of continuing concerns which we have previously addressed in a publication, Federal Legislation and Education in New York State. Chairman Owens, you had eluded very succinctly to the problem of Federal funding and the fact that the promise back in 1975 of funding to support education of handicapped children up to a level of approximately 40 percent has never been realized and the Regents and the Department urge Congress to take every effort to match the statutory and regulatory commitment with sufficient funding to meet the educational needs of our disabled children and youth. This is especially true in light of new programs and services which are required for handicapped infants and toddlers and children three to five years of age with handicapping conditions.

We also urge that there be consideration for the consolidation of Federal entitlement programs. Currently, we have the basic Pub. L. 94-142 grant program, the Preschool Grant Program and the Pub. L. 89-313 Grant Program. These programs should be consolidated under a single authorization with State plans and accountability for the use of such funds governed by a single set of administrative rules. Consolidation would help reduce administrative

burden and duplication of effort in applying for, allocating, approving and mandating the use of Federal entitlement funds.

Finally, with regard to the coordination of special education and rehabilitation services, the coordination of planning and program implementation at both the Federal and state levels should be better coordinated and in a more comprehensive fashion. This would be critical if the transition of our disabled youth to postsecondary opportunities to become successful for all such students. Systematic linkages need to be established and can only be effective if driven through coordinated Federal mandates governing programs both for children and youth and the adults with disabilities.

Now I would like to turn to a summary of comments on the subcommittee's proposal. First of all, in regard to terminology, we support the substitution of the term disability for handicapped. We believe this is a less stereotypic term and consistent with preferred practice in the field and terminology in use today. Chairman Owens, you had mentioned the Americans With Disabilities Act and I think the terminology here reflects new thinking on this matter.

In terms of definitions, we do not agree with adding more definitions with the exception of autism which provides for a conformity between Federal regs and statute. In terms of traumatic brain injury, we would support including this under the definition of other health impaired. The other kinds of categories we believe, improving such would result in a proliferation of categories supported by particular interest groups.

In that light, we do not agree with adding attention deficit disorder to the definition of specific learning disability for a different reason. There appears to be a lack of consensus among professionals regarding the diagnosis and appropriate programming for these students. We believe, however, these students can be served under definitions currently in place for other disabling conditions where it is appropriate.

We support efforts to better coordinate the grant programs under the Act and the emphasis that you have placed on getting information on the availability and the results of various grants and evaluation studies more widely disseminated to parent groups as well as professionals throughout the State. Also we support the proposal to increase the input from minority parents.

Through these efforts and as indicated, current and developing clearinghouses and organizations would be networked in order that all groups could benefit from the information available through the discretionary programs and the results of various studies.

We support enhanced efforts to recruit and train minority and disabled individuals for careers in special education. Also the initiative aimed at insuring that minority children and youth who are disabled receive appropriate programs and services in a manner consistent with those provided to all such children and youth, and ensuring the needs of minority children and youth and parents are considered in the development, implementation of discretionary programs.

The reasons for our support are clear. By the year 2000, we expect the school population in New York State will be at least

one-third minority in composition. In New York State, the teaching force currently is only about 12 percent minority.

As indicated, we do recommend a broad based approach to trying to deal with institutions of higher education in conjunction with your specific proposal concerning the 10 percent set aside for historically black colleges for African-Americans. We urge that you look at this issue on a more broad scale across all institutions of higher education.

We support the concept that Federal regional resource centers focus on state identified needs, rather than Federal identified needs. We feel it is very important and as you have indicated that parents, especially parents of minority children, teachers, other organizations with an interest in children and youth with disabilities, have an opportunity to express needs to the State Education agencies responsible for educating children and youth which is the State Education Department, in order that we can then construct programs and services and increase our capacity to deal with current and emerging trends in special education.

We support priority attention to the seriously emotionally disturbed in terms of expanding options that are available, improving the quality of programs and cooperating with the Office of Mental Health and other state agencies in order that programs can be well coordinated to meet the educational and mental health needs of such students.

Finally, we support the focus of the proposal on the transition of disabled youth to postsecondary education and employment.

We must increase our efforts in this area at the Federal and state level. Successful transitions should be the rule rather than the exception and schools must begin to share in this expectation for all disabled youth.

As we work together, I am confident we will realize the potential of our disabled population as a valuable resource waiting to be tapped and here to enter society as full participants in employment and the community.

In closing, I would like to thank you for the opportunity to present testimony concerning the Subcommittee on Select Education's proposal regarding the reauthorization of the Education of the Handicapped Act. We offer our testimony in the best interests of children and youth with handicapping conditions, their parents, professionals and other individuals within our state who have an interest in this important matter. The New York State Board of Regents and the State Education Department are steadfast in their commitment to ensuring that all disabled children and youth receive the benefits which this landmark legislation has assured.

[The prepared statement of Thomas Neveldine follows:]

Statement of

New York State Board of Regents
and the New York State Education Department

to

The Subcommittee on Select Education
Committee on Education and Labor
U.S. House of Representatives

with respect to

Reauthorization of the Education of the Handicapped Act

March 26, 1990

Presented by:

Thomas B. Neveldine
Acting Assistant Commissioner
New York State Education Department
Office for Education of Children with Handicapping Conditions

INTRODUCTION

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to address you today, on behalf of the State Education Department and the Board of Regents, and to present this statement pertaining to the reauthorization of the Education of the Handicapped Act (EHA).

The enactment of the Education of the Handicapped Act had a significant role in enhancing the capacity of this nation to provide a free appropriate public education to children and youth with disabilities. Periodically, Congress has reviewed this statute and has made amendments necessary to assure that its provisions remain responsive to the critical and emerging needs for the education of individuals with disabilities. Over time, adjustments have improved the preparation of personnel, the production and dissemination of knowledge and the development of service systems at the state and local levels. The present reauthorization avails a new opportunity to examine the efforts of the past and the avenues to be taken in order to improve the educational system designed to serve these children.

The Board of Regents and the State Education Department appreciate the considerable time, energy and thoughtfulness that the members of this Subcommittee have devoted to the reauthorization of the discretionary programs over the last year. You have structured a variety of opportunities to hear the concerns and recommendations pertaining to these programs from a wide range of persons interested and involved in the education of children with disabilities. The importance you place on this process has been equally evident in your efforts to sustain a dialogue with the field in examining alternative approaches for achieving desired improvements.

The comments presented here have been preceded by written communications and discussions with the Subcommittee regarding the discretionary programs. Today the focus of my comments will be primarily on the major proposals contained in the draft bill prepared by the Subcommittee. The Department looks forward to a continuing dialogue with the Subcommittee regarding this reauthorization and will be happy to share additional perspectives on these or other proposals that emerge as a result of these hearings.

THE PROVISION OF SPECIAL EDUCATION SERVICES IN NEW YORK STATE

Demographic Information

In New York State, a free appropriate public education is available to all children with handicapping conditions who are between the ages of three and twenty-one. During the current 1989-90 school year, approximately 293,000 children with handicapping conditions between the ages of three and twenty-one are enrolled in the State's public school system, representing about 9.3 percent of the total public school student population.

In accordance with Article 89 of the Education Law of New York State, in order to receive special education services a child must be determined to have a handicapping condition. Such determinations are made by the Committee on Special Education (CSE) or the Committee on Preschool Special Education (CPSE) based on a review of the results of an individual evaluation. The CSE or CPSE must determine whether a child has one of the eleven handicapping conditions as defined in the Part 200 Regulations of the Commissioner. It is important to emphasize that the handicapping conditions that are used in New York State are consistent with Federal statute and regulations.

I would like to provide you with a breakdown by handicapping condition of the approximately 293,000 students with handicapping conditions who are receiving special education services during the current school year:

- Less than 1% have been classified as autistic.
- 15.5% have been classified as emotionally disturbed.
- 60% have been classified as learning disabled.
- 7.7% have been classified as mentally retarded.
- Less than 1% have been classified as deaf.
- Less than 1% have been classified as hard-of-hearing.
- 8.9% have been classified as speech impaired.
- Less than 1% have been classified as visually impaired.
- Less than 1% have been classified as orthopedically impaired.
- Less than 1% have been classified as other health impaired.
- 3.7% have been classified as multiply handicapped.

It is important to note that this breakdown is an approximation, since complete data for the current school year has not yet been fully analyzed.

A full range of special education programs and services are available to meet the needs of disabled students in our State. This includes itinerant related services which are provided in

conjunction with regular education class programs, related services, consultant teacher services, resource room programs, special class programs, home and hospital instruction, and residential programs. Our State affords all children with handicapping conditions opportunities for a free appropriate public education in the least restrictive school settings consistent with their Individualized Education Programs (IEPs).

There are 723 school districts in the State. Each district's board of education must provide appropriate special education programs and services to the children with handicapping conditions, ages three through twenty-one, who reside in the district. Services may be provided by the local district, the Board of Cooperative Educational Services (BOCES), Special Act School Districts, nonpublic schools, approved private schools, State-supported or State-operated schools, or by schools in other State agencies.

Guiding Principles

The Board of Regents and the State Education Department have developed an agenda to unify all educational programs into a continuum to which all students have access under the following key principles:

First, all students with handicapping conditions should receive an education appropriate to their individual needs. In order for this to occur, each public school must locate, identify and evaluate all children with handicapping conditions and provide appropriate individualized education programs and services to enable such students to achieve the basic competency requirements of public education.

Second, all students with handicapping conditions should have access to the full range of services within school districts and a free appropriate public education in least restrictive environment.

Third, students with handicapping conditions should be the responsibility of all decision-makers within a school district, and not just the responsibility of special-education administrators.

Fourth, the majority of students with handicapping conditions have the capability to obtain diploma credentials with the assistance of high quality special education services.

Fifth, we must ensure that expanded and improved special education programs and related support services are cooperatively provided by a variety of appropriate agencies to special groups of children with handicapping conditions. These special groups include:

- children below the age of five who may benefit from special education and related services prior to entrance into school;
- children with severe handicapping conditions who require extraordinary services not typically provided by the public school system;
- children of low income, minority and non-English-speaking populations who also have handicapping conditions;
- unemployed or underemployed handicapped youth who are not of compulsory school age and have dropped out of school; and
- troubled youth (neglected, delinquent, and youth in jails) who also have handicapping conditions.

and **Sixth,** students with handicapping conditions should be provided high-quality educational programs that lead to a high-school diploma, meaningful employment, postsecondary education plans, independent living, and a smooth transition to adult services.

Federal Legislation and Education in New York

In the 1990 edition of Federal Legislation and Education in New York State presented to the members of Congress and the Federal Administration, the New York Board of Regents made known its recommendations for Federal education programs. In the section of this brochure entitled, "Education For All Handicapped Children," New York State affirmed its commitment to assuring quality instruction and school achievement for students with handicapping conditions through improved accountability, access, and opportunity in curricular and extracurricular activities. The Board of Regents and the State Education Department further urge that changes occur at the Federal level to support and assist state efforts to provide appropriate educational services to children and youth with disabilities.

Prior to a discussion of comments regarding the specific proposed changes of the Education of the Handicapped Act (EHA) submitted to your subcommittee, there are several areas of the Act that the New York State Board of Regents believe must be reviewed to establish the context for the subsequent recommendations.

Program Funding

The Federal government must assume its share of the financial responsibility for implementation of the mandates for education of the handicapped. While the threat of including programs for the education of children with handicapping conditions in a block grant has been removed for the immediate future, a full Federal fiscal commitment has never been realized. To maintain and build upon the educational gains made by children with handicapping conditions in the last decade, the Regents urge Congress to match the statutory and regulatory commitment with sufficient funding to meet the educational needs of this population.

The Federal government, particularly, should provide states with necessary fiscal resources to implement the Education of the Handicapped Act Amendments of 1986 for the education of children with handicapping conditions ages birth to two and three to twenty-one.

Consolidation of Federal Entitlement Programs

Three separate Federal entitlement programs for the education of children with handicapping conditions are presently authorized under two separate statutes. They are: 1.) The basic Public Law 94-142 grant program (EHA, Part B, Section 1411); 2.) The Preschool Grant Program (EHA, Part B, Section 1419); and, 3.) The Public Law 89-313 grant program (Elementary and Secondary Education Act, as amended, Title I, Chapter 1, Part D, subpart 2).

These programs should be consolidated under a single authorization, with states' plans and accountability for the use of such funds governed by a single set of administrative rules and regulations. Consolidation would help reduce administrative burden and duplication of effort in applying for, allocating, approving, and mandating the use of Federal entitlement funds.

Coordination of Special Education and Rehabilitation Services

The relationship between special education and vocational rehabilitation services needs to be strengthened. This effort should include the coordination of planning and program implementation at both the Federal and State levels. The New York State Education Department strongly supports the synchronization of planning requirements, including the coordination of state plans and increased efforts in transition programs in order to systematically link secondary school programs to higher education, adult educational programs, adult services, rehabilitation services and employment opportunities for individuals with disabilities.

Given the broad recommendations provided above, we will now focus our remarks on the proposal of the subcommittee.

Comments on the House Bill to Reauthorize the Education of the Handicapped Act (EHA)

Title (Section 1)

Though this section of the draft bill does not change the title of the Act, the Technical Amendments found at the end of the bill (Title IX, Section 901 on page 78) would change the title of the EHA to: Individuals with Disabilities Education Act. In addition, the Technical amendments would change all references to the term "handicap" to "disability."

The New York State Education Department supports the substitution of the term "disability" for "handicapped" as it presents a favorable treatment of individuals with disabilities and moves away from the stereotypes associated with the term "handicapped."

Definition of Handicapped Children (Section 602 (a)(1))

The proposed draft bill would add new categories of autism and traumatic brain injury to the definition of children with handicapping conditions.

The New York State Education Department does not support this change, as it will result in the proliferation of new disability categories and increased data burden on the states. Children with these conditions who as a result of their disability require special education and related services are currently eligible to be served under this Act. However, the New York State Education Department would support including the category "traumatic brain injury" in the EHA regulations under the category "other health impaired."

Definition of Specific Learning Disabilities (Section 602 (a)(5))

The proposed change expands the statutory definition of specific learning disabilities to include children diagnosed as Attention Deficit Disorder (ADD).

The New York State Education Department does not support including this term in the definition of specific learning disabilities. This change would not improve services to students, but could begin a process whereby numerous advocacy groups would lobby for their particular disability to be included in this definition. Currently, there is a lack of consensus among professionals regarding the diagnosis and appropriate educational intervention for children and youth with this disorder. Those children with ADD who meet the definition of the other handicapping conditions within the Act and whose disability adversely affects

their educational performance would qualify for special education services.

Definition of Special Education and Related Services (Section 602 (a)(16) and (17))

The proposed bill would expand the definition of both special education and related services. Transition services, such as rehabilitation counseling, and functional vocational evaluation would be added to the definition of special education services.

The New York State Education Department recognizes the need for increased attention to the issue of transition services and supports the need for more effort and resources in this area. However, we strongly oppose the addition of rehabilitative services and functional vocational evaluations for the definition of special education. Instead, we recommend that additional attention and resources be added to the Rehabilitation Act in order to allow vocational rehabilitation counselors to be more readily available to school districts during the transition period.

The term "rehabilitation counseling" is also included in the proposed revised definition of related services.

Counseling is currently a related service under EHA. The New York State Education Department opposes the addition of "rehabilitation counseling" to this definition which goes beyond the educational services currently defined as special education. Again, we urge you to attend to this issue during the reauthorization of the Rehabilitation Act.

Abrogation of State Sovereign Immunity (Section 604)

The proposed change would add language which denies immunity to States for violations of EHA under the 11th Amendment of the U.S. Constitution. The New York State Education Department opposes this proposed change as it will only result in additional legal and financial burdens for states with no improvement of services to children.

Reports, Evaluations, Findings and other Provisions Generally Applicable to Parts C through G

The proposed change creates a new Section 610 which establishes general provisions that apply to Part C through G of the Act. This section requires the Secretary to maintain a program planning process and to conduct independent evaluations for each program authorized under Section 618 of the Act. In addition it would require the Secretary to develop procedures for acquiring and disseminating information derived from programs and projects funded

under Section 618. Such projects would be required to report their findings in a manner that maximize their use. The Secretary will be further authorized to convene panels of experts to review proposals funded under Section 618.

The New York State Education Department supports these changes as it establishes a formal planning process that is not uniformly in place at Office of Special Education Programs (OSEP) for all programs. These changes would institutionalize higher degree of accountability in the discretionary programs and would increase the dissemination and use of project findings. The New York State Education Department would support, however, the inclusion of specific language which calls for the involvement of State Education Agencies (SEAs) in such review panels.

Goals for Minorities and Underserved Persons (Section 610 (g))

This proposed new section addresses three areas including (1) increasing the number of qualified minority professionals serving children with disabilities (2) assuring that minority children receive services available to all children, and (3) assuring the needs of minority children and parents are fully considered in the design and implementation of discretionary programs.

The New York State Education Department supports the interest of this proposed change, especially in light of increased enrollments of minority children in public schools. Careful consideration should be given as to whether the proposed strategies herein will lead to the successful attainment of the goal. The Department further supports provisions requiring that Institutions of Higher Education (IHEs) receiving personnel preparation grants describe where applicable, how the needs of minority children will be addressed in their training activities.

State Plans (Section 613 (a)(3))

The proposed changes will require that State Plans describe the State's procedures and activities that it will carry out to ensure an adequate supply of qualified personnel to administer, support, and provide special education and related services to eligible children and youth with disabilities.

While the New York State Education Department supports increased coordinated efforts in order to address the recruitment and preparation of qualified personnel, these requirements will place additional data collection burdens on the states in order to meet compliance standards. Personnel shortages have been well documented, however, the recruitment of qualified candidates, especially minority candidates, requires more coordinated action and should be included in the reauthorization language.

There must be greater recognition of each state's role in training and personnel development and the need to establish systems that meet geographic, demographic, and specific personnel imperatives without hindrance from overly prescriptive Federal requirements. Current regulations concerning states' responsibility for personnel development are unwieldy and unresponsive to local needs.

The U.S. Department of Education also needs to examine closely the manner in which it involves state education agencies in developing priorities under the personnel preparation grant program. States must be able to access Federal funds to address critical regional and statewide needs identified in their Comprehensive System for Personnel Development (CSPD). Related regulations should be promulgated with dispatch.

The Regents strongly encourage the provision of fiscal incentives to preservice special education candidates to assist in increasing the pool of qualified personnel. Several national organizations have confirmed the significant shortages of such personnel which have potentially damaging consequences for the nation's children and young adults with disabilities.

Administration U.S. Department of Education (Section 617)

The proposed change will require that the Secretary operate a computerized information management system for the purpose of making available information about projects/programs funded under the Act accessible to Congress, the Department of Education and other interested parties.

The New York State Education Department does not support this proposed change, since the dissemination of information about such programs/projects could be handled appropriately through the various clearinghouses currently in operation. Given the nature of the priority needs for information to improve services for children with disabilities, the Department believes that a system such as that proposed would be of limited benefit to the field. The cost of such a system, if operationalized, could outweigh the benefits of its use.

Evaluation (Section 618)

Proposed language will require the lead agency, as designated for Part H (for children receiving services in birth to two programs) to report data to the Secretary. Such data would be reported to the Secretary by the State Educational Agencies. The New York State Education Department supports this procedure as it will require SEAs to enter into cooperative agreements with other agencies of the State in order to comply with this provision.

In addition, the proposed changes will add new data reporting requirements on the number of children exiting preschool programs, under Part B of the Act, who enter regular education programs at the first grade level and a sampling of data on children ages 0-11 who exit special education programs. These new data requirements will create a burden both at the state and local level. The New York State Education Department would support a special study to determine if students exit before age fourteen and to determine the extent children exit special education and return to regular education programs at the first grade level as an alternative to new reporting procedures.

Implementation Inquiries (Section 618 (c))

The proposed language expands the authority of the Secretary to conduct studies, analysis, and other investigations designed to improve the administration, management, delivery and effectiveness of special education, related services and early intervention services.

The New York State Education Department supports the conduct of such studies, but would encourage the establishment of linkages with the SEA if such study is carried out by an agency other than the SEA.

Special Studies (Section 618 (e))

Proposed changes in the draft bill continue the authority for the Secretary to conduct studies to assess progress in the implementation of the Act and to assess the impact and effectiveness of efforts to provide FAPE and early intervention services.

The New York State Education Department supports the proposed changes as the study topics are in areas of interest to this State. We would suggest language that indicates such studies are carried out through cooperative agreements with States and that it meets a designated need of such state. The Department further supports the continuation of the national longitudinal study of youth with disabilities.

Regional Resource and Federal Centers (Section 621)

This section is amended by specifying that Regional Resource Centers will focus on special education, related service and early intervention. This change should be supported as it clarifies the intent of these Centers. In addition the RRC services will be focused on state, not OSEP, identified needs.

The proposed amendment to this Section will allow SEAs and disability advocates the opportunity to provide input in the establishment of criteria and guidelines for regional resource centers. The New York State Education Department would support this provision if the involvement of such groups is on an ad hoc basis. Parents of disabled children and youth should be represented on the panel and selected by State Directors.

Services for Deaf-Blind Children and Youth (Section 622)

Proposed changes in this section would allow local educational agencies to receive assistance in regard to deaf-blind children and youth. The reference to age 22 in Section 622 (a)(1)(b) has been deleted and would allow for the provision of services to facilitate the transition of deaf-blind children from educational to adult services at a younger age. In addition, funds to be authorized under this section would be used to support pilot projects that are designed to expand local school district capabilities to these students and to encourage eventual assumption of funding for such supplementary services by state and local agencies; to support research to address the full range of special needs of such deaf-blind children and youth; and to support the development, improvement or demonstration of techniques regarding the education of such children and youth. Language should be added which specifies that any grant or contract awarded to an LEA will be based on an assurance that they will coordinate their efforts with the SEA.

Currently, both Section 622 and 624 permit the use of funds for systems change projects to address the needs of children who are deaf-blind, as well as children who are severely disabled. A proposed change in the bill would restrict the use of funds to only those projects concerned with children who are deaf and blind. The New York State Education Department does not support this proposed change as it would eliminate support already being provided to several states for their systems change grants, by limiting support to projects that focus on children with deafness and blindness, rather than permitting support for projects that are also including children who are severely disabled. The Department would support continuing to permit Section 622 funds to support these efforts, or by increasing the appropriateness for Section 624 to permit continuation and expansion of these projects.

Section 622 (4) has been proposed to be amended to read that all parts of the country will have an opportunity to receive assistance under this subsection by authorizing the Secretary to establish and support single- and multi-State centers to provide technical assistance and pilot supplementary services for the education of deaf-blind children and youth and their families. In

addition, the Secretary will be authorized to establish a national center on deaf-blindness which will be responsible for disseminating effective practices and working with this population. The New York State Education Department would support the proposed provisions. The proposed amendment deletes those subsections that exist in the EHA on the availability of funds that would support projects pertaining to severely handicapping children and youth. The New York State Education Department supports the inclusion of the definition of children who are deaf-blind in this section in order to provide clarity regarding the intended targeted population for these funds.

Early Education for Handicapped Children (Section 623)

Proposed changes in this section of the Act include the requirement that projects be designed to provide family education and include a parent or their representative of such child, as well as to encourage parental participation in the development and operation of funded projects; requires that training about exemplary models and practices be provided not only to state and local service providers but also to parents of children served and that funded projects should be designed to include the involvement of adult role models with disabilities at all levels of the program. The meaning of this latter inclusion is unclear and may require additional descriptive language. A major change is proposed for the National Technical Assistance Development System (NEC*TAS) in Sections 623 (b). The proposed amendment would add new responsibilities, requiring NEC*TAS to provide assistance to parents and advocates as well as to direct service and administrative personnel involved with young children. The New York State Education Department recommends that the change proposed for NEC*TAS in which their targeted audience is expanded beyond state agencies require a cooperative agreement with the state so that efforts are coordinated and not duplicated. The Department further believes that NEC*TAS should continue serving state agencies as their prime focus.

Programs for Severely Handicapped Students (Section 624)

The proposed language in this section includes technical changes that provide clarity when addressing the needs of severely handicapped children and youth and personnel who serve this targeted population. We support this modification. Proposed changes specify that training provided by projects funded under this section may include training of regular teachers, instructors, and administrators which include integrated settings for educating such children along side their nondisabled peers. The New York State Education Department would support this change as it is consistent with this Office's project to expand educational opportunities for students with severe handicapping conditions.

As previously stated, the Department would also support an appropriation for this Section to permit continuation of systems change grants.

Secondary Education and Transitional Services for Handicapped Youth (Section 626)

This section will provide the Secretary the authority to fund one or more demonstration models to establish appropriate methods of providing, or continuing to provide, assistive technology devices and services to secondary students as they transition to vocational rehabilitation, employment, adult services, post-secondary education. The New York State Education Department supports this new authority for projects which address technology needs of disabled youth in transition and would encourage a substantial increase in the authorization level for this section of the law in order to achieve the program objectives.

In addition, another major new program is proposed for one-time (5) year competitive grants for projects to implement improved transition services for youth with disabilities from 14 through 21 years of age. Eligible applicants are state vocational rehabilitation agencies and SEAs which co-submit a project. The New York State Education Department supports this amendment as it is the goal of this State, through expanded and strengthened connections between the Department's Office of Elementary and Secondary Education and a newly created Office of Vocational and Educational Services for Individuals with Disabilities (VESID), to facilitate successful transition of students with handicapping conditions to post-secondary educational experiences and employment opportunities. In addition, this will assist in strengthening a positive direction articulated by the Office of Special Education and Rehabilitative Services (OSERS).

Programs for Students and Youth with Serious Emotional Disturbance (new Section 627)

The proposed amendment to the Act will authorize the Secretary to make grants to institutions of higher education, SEAs, LEAs and appropriate public and private agencies to improve educational programs and services to children and youth for serious emotional disturbances. This new section includes areas of study for which such projects will be targeted in relation to these students. The Secretary will be further authorized to award projects to LEAs in collaboration with mental health entities to provide services needed by children and youth with emotional disturbances. The New York State Education Department supports these proposed changes, as this Office has targeted children and youth with severe emotional disturbances as a priority area for the next several years.

Training Personnel for the Education of Handicapped Individuals (Part D, Section 631 and 632)

Most changes in this section include language which addresses the recruitment and training of minority groups and persons with disabilities. Such proposed changes are consistent with this state's efforts to promote greater involvement of underrepresented groups in the field of special education. There will be a greater emphasis placed on the coordination of efforts among all service providers, including regular educators at both the preservice and inservice level. The intent is consistent with New York State's effort to integrate regular and special education systems to provide a unified system to better meet the needs of children and youth with handicapping conditions.

Grants to State Education Agencies and Institutions for Traineeships (Section 632)

The proposed revisions of this section would permit the use of funds for purposes currently specified in EHA and for additional purposes; assisting the state to develop and maintain its CSPD and to conduct recruitment and retention activities. The New York State Education Department supports this change as it will enable the Department to work on CSPD state plan activities as part of their SEA project.

Clearinghouses (Section 633)

The proposed revisions continue the authority of the Secretary to fund three national clearinghouses on specific topics which are consistent with this Act. The proposed changes would not substantially effect the clearinghouse profession. Other changes proposed in this section are largely administrative in nature and are supported by the New York State Education Department.

Part E Research in the Education of Handicapped Individuals - Research and Demonstration Projects (Section 641)

Proposed changes include refocusing program purpose and activities to improve instruction in order to improve learning by students. This proposal would also require the Secretary to fund projects for the establishment of school-based model demonstration programs that provide the services of an ombudsman to assist in resolving problems which are barriers to appropriate educational, related services, or other services for children and youth with disabilities. While mediation and other methods are certainly appropriate, ombudsman services may create another form of bureaucracy that may cause delays in assuring that a parent receives their due process rights. In addition, there is no hard

evidence of a problem warranting an ombudsman program. The New York State Education Department would support research about the problem (i.e. case management, coordination, etc.) and subsequently a determination of what strategies might be effect in addressing the problem.

Part G Technology, Educational Media, and Materials for Handicapped Individuals (Section 661)

Proposed changes in this section include a refocusing of the program purpose to efforts on improving the delivery of education, rather than on the education of children with disabilities. Further, it would require that technology projects be assistive (in nature), but does not include instructional technologies such as computer assisted instruction or use of computer or curriculum-based instruction. The New York State Department believes that this program should maintain its current focus on education/instruction of children. Additionally, by adding assistive to technology, this program could not support projects dealing with instruction or assessment because the term assistive as defined in Technology Act refers to assistive for functional not educational purposes.

Part H Handicapped Infants and Toddlers Requirements for Statewide System (Section 676)

Proposed changes in this section appear to address a concern regarding primary referral sources (e.g. hospitals, doctors, etc.). To address these concerns the proposed changes require that state's public awareness component include the preparation and dissemination to all primary referral sources of information materials for families on the availability of services. In addition, the CSPD component would have to include training of primary referral sources about the basic components of early intervention services available in the state and require an additional component in the statewide system procedures for determining the extent to which primary referral sources, especially hospitals and physicians disseminate information on the availability of early intervention services to parents of infants with disabilities. The New York State Education Department would support these changes as they promote greater awareness and involvement of key individuals who are responsible for the provision of services to this targeted population.

Closing Statement

Thank you for the opportunity to present testimony concerning the Subcommittee on Select Education's proposal regarding the reauthorization of the Education of the Handicapped Act (EHA). We offer our testimony in the best interests of children and youth with handicapping conditions their parents, professionals, and other individuals within our State who have an interest in this important matter. The New York State Board of Regents and the State Education Department are steadfast in their commitment to ensuring that all disabled children and youth receive the benefits which this landmark legislation has assured.

Chairman OWENS. Thank you Mr. Neveldine. Let's begin with a very general question. Would you care to comment on the situation which I described in my opening statement where the New York State Office of Mental Retardation and Developmental Disabilities said that although minorities are 25.12 percent of the State's population as indicated in 1986, they are vastly underserved in the State programs. The State agency said further that of the 56,900 minority people in New York who are developmentally disabled, only 10,071 were receiving services and in New York City home to two-thirds of New York State's African-Americans, and that an estimated 50.2 percent of developmentally disabled African-Americans and 74.7 percent of developmentally disabled Latinos were not given help. Would you care to comment on that broad situation.

Mr. NEVELDINE. I would like to comment in a couple of ways. First of all, I think that the information signals a need for our continued efforts with interagency cooperation to ensure that as students leave their school programs, that other agencies such as the Office of Mental Health will pick them up in the adult sector, are first of all providing information on the kinds of students coming through, but also help cooperatively to work with us. If they feel there is a lack of programs for these adults, then there maybe a concomitant lack of programs in the school age. However, we do believe that many minorities are currently involved in special education and also very honestly that we are not over referring minorities, children and youth, to special education programs, so I believe that your analysis is correct and we need to strengthen efforts at the State level to work together to address the problem so that we don't get involved in a situation where children are provided programs and then they transition to adult services but somewhere there is a gap in services or a lack of a referral mechanism or some other thing that impinges on their getting the services they need.

Chairman OWENS. Is New York State undertaking any special programs to deal with the problem that we have found all over the country—there is a great shortage of teachers for the people with disabilities. Do you have a program underway at present or do you foresee launching some kind of program to get more teachers for children with disabilities?

Mr. NEVELDINE. The lack of appropriate professionals in special education as you have indicated has been clearly recognized at the Federal level and last year I think a report was issued by several major organizations indicating that approximately 27,000 teachers were needed in the country during the years 1985–1986 and that that had increased 10,000 in just two years, so we have had a project in place now where each year we meet with all of the preservice institutions that provide and prepare special education teachers. We provide this data to them, copies of those reports, and ask them to begin to develop some innovative programs in this area to increase the numbers of minorities in the professions of special education.

We have much more to do in this area very honestly. I believe that the reauthorization language will strengthen the kinds of programs that we have begun and give us, I think, more initiative and strength in terms of working with a higher education institution. Here, again, I think there is a need to make sure that we have a

collaborative approach with the universities, that they are clear on what the need is, and that we can do whatever we can as a State Education Department to encourage the development of new programs.

Chairman OWENS. Do we have many public or private institutions that are specializing in higher education in this regard?

Mr. NEVELDINE. For minorities?

Chairman OWENS. Not for minorities, for teachers—for children with disabilities.

Mr. NEVELDINE. Yes, yes. There are some thirty-five institutions in the State, both public and private, who do prepare special educators. I think one of the issues which was addressed in your proposal is providing some Federal funding to get more teachers into the field and I know on a personal note, when I was taking courses back in 1970, there was Federal funds available to take special ed courses which then were kind of dissipated over the years, so I think that will also help us to attract more and provide incentives to those individuals.

Chairman OWENS. You said Federal funds have been dissipated, meaning they are lumped in with other funds or discontinued?

Mr. NEVELDINE. Yeah, well, I am not sure exactly what happened to them, very honestly, but I know in the early 1970's there was funding available for people through fellowships, such as myself, who were interested in careers in special ed to have some support from the Federal Government and getting course work and getting started at least.

Chairman OWENS. Now, the discretionary programs that we are considering today, provide funding through a grant process, and as you have commented, there is a need to use that to encourage more minorities.

Mr. NEVELDINE. Sure.

Chairman OWENS. We have too few teachers overall, but within that number the percentage of minorities is decreasing rapidly. In your testimony you said that you would prefer a broad-scale approach rather than a set aside approach. Could you elaborate on that?

Mr. NEVELDINE. Yes, when I mentioned the broad scale approach, it is what we have been talking about here in terms of making sure that all of the universities, especially in New York State, have an awareness of the situation and begin some initiatives to address the situation. Certainly, the ten percent set aside will help with particular colleges to get more minorities into the field but I think we also need to make sure that all of our institutions of higher education are clear about the need in the State, and are developing programs again as I indicated to help attract more minorities, and becoming aware of whatever Federal resources or state resources that are available. We are obviously, at the State Education Department, on a broader scale looking at this issue not just for special education but for all of the programs under the education umbrella, so there are some initiatives which have begun in our higher education office to create a database of programs and individuals who can be brought into the field and provide them information and opportunities to get their advanced degrees to become certified.

Chairman OWENS. Well, we have added seven new definitions and you said that you were not in favor of it, except for autism, we should not add those other categories. What is the problem, how do you suffer when we do that?

Mr. NEVELDINE. Well, as——

Chairman OWENS. How does the bureaucracy suffer I should say?

Mr. NEVELDINE. Well, with any new regulation, as you know, there are all of the associated paperwork, but I guess we are more concerned from a program standpoint because we believe that some of these disabilities can be accommodated with the current definitions and if we were to start some new ones such as attention deficit disorder before the proper research has been done in the university sector and we are sure about how to diagnose these children properly and then how to program for them. We are going to be creating a situation where we will have a category of children with kind of uneven educational opportunities for them. We certainly won't have the teachers prepared to provide instructional programs for these children if there is no research to support the needs and the kinds of information that teachers will have to have in order to effectively instruct the students so it is kind of putting the cart before the horse.

I think where the case of traumatic brain injury is kind of a different issue, we believe many of those children could be appropriately classified under other health impaired.

Once we start adding more and more categories, then it becomes more and more difficult again without doing the preliminary work at the research side and the diagnostic side in making sure we have individuals in the field who are qualified and trained to both evaluate the students and then recommend appropriate programs.

Chairman OWENS. You are in favor of and you say you have a special program in support of transition services and you support the new joint project between the SCA and the State Vocational Rehabilitation and yet transition services is one of those that you don't want to put in the new definitions.

Mr. NEVELDINE. No, I'm sorry, I don't think I said transition services. We do fully support the transition services.

Chairman OWENS. They are part of the new definitions though.

Mr. NEVELDINE. Yes, yes, we do fully support that. In fact, in the New York State Education Department, we have a reorganization of what was formerly called the Office of Vocational Rehabilitation which is now the Office for Vocational and Educational Services for Individuals with Disabilities so there is going to be a higher level of coordination between all offices within the Department to increase access and opportunities for the disabled and also to better coordinate all of the work of the different agencies, especially with regard to employment opportunities. We will be working very closely with the new office to ensure that when students leave their school program, parents and the students know what the next steps are. Our goal is for what we call a seamless transition between secondary programs and postsecondary programs and employment opportunities so we will be having a series of initiatives to strengthen the transition planning for students. We have brought to our Board of Regents this year some recommendations. We have had some public hearings and working sessions on how we

might better link together the school program and postsecondary opportunities and later this spring we will be coming forth with some recommendations for our Regents which will hopefully in a very concrete way systematically tie the school programs to the other programs that children will need to transition to, once they have finished their programs.

Chairman OWENS. The Ombudsman proposal that we have mentioned deals with the type of situation that the José P. case illustrated. Would you care to comment on that case?

Mr. NEVELDINE. I think in our testimony our comments reflect our concern that we don't create another layer of review in terms of disagreements between schools and parents. We do have a mediation pilot going on in our State to test out that as another way that parents and school districts can come to agreement before going to a formal impartial hearing. This particular program, the Ombudsman, we would recommend some further study about it before developing it as an initiative within our own State.

Chairman OWENS. Well, finally one question I have as a result of discussion I had a few days ago with a group of ministers who operate small church groups. Do you foresee any greater role for non-public schools in special education?

Mr. NEVELDINE. Well, one of the things that we are very much concerned about is the Federal requirements on least restricted environment, so in terms of programs for the mildly disabled, we don't see non-public schools growing in that regard in terms of other improved programs, but for students with severe impairments that cannot be accommodated in the public sector, there may be a role of some non-public types of schools for those students, but we believe that all children who are attending non-public schools placed by their parents should have access to special education programs and services at neutral sites and other arrangements that are allowed by Federal and state laws, but we don't see a new development in the non-public sector for more mildly disabled students or moderately disabled students.

Chairman OWENS. You have a duty of mechanism for contracting with private schools, don't you?

Mr. NEVELDINE. Yes.

Chairman OWENS. For these specialized cases?

Mr. NEVELDINE. Yes, right. Private schools in our state that apply are reviewed in terms of regulatory requirements, both fiscal and programmatic and if they meet those fiscal and program standards can be approved to serve disabled students, but most of the private schools in our state tend to serve the more severely impaired, since the public schools districts and Boards of Cooperative Educational Services serve the high proportion of students who fall into the mild and moderate categories.

Chairman OWENS. Do you think the State is reasonably knowledgeable about what is taking place in New York City with respect to special education?

Mr. NEVELDINE. Yes, we have spent approximately thirteen years with the José P. case which has been an on-going litigation. Our staff, as well as staff from the New York City Board of Education, United Federation of Teachers, have been involved in on-going discussions and debates with the Plaintiffs. We have been a co-defend-

ant in this case so we are very much aware of the current issues that are trying to be solved and also the longstanding issues in the City area. We have documented these to the previous Chancellor and to the new Chancellor. We have held up Federal funding in the past, and are currently holding up Federal funding until these matters can be appropriately resolved.

Chairman OWENS. You are currently holding up Federal funding in what respect?

Mr. NEVELDINE. Until we get satisfactory progress on the issues that have been outlined to the City.

Chairman OWENS. How much money is involved?

Mr. NEVELDINE. It is around, between $35 and $40 million.

Chairman OWENS. Was a draft monitoring report for New York State—have you been following that?

Mr. NEVELDINE. We have not received yet a copy of the draft monitoring report, although I was told it would probably be here at the end of January. We are still awaiting that. We were site visited last April so it has been almost a year and I think myself along with other State special ed directors have been concerned with the time lag between the visit by the Federal Government and then even the draft finding so we know what corrective actions we must take so we are still awaiting that report and, obviously, that may cause us to focus some of our resources in different areas, but until we receive that report, we are kind of in a holding pattern in terms of what the Federal Government would like us to do in terms of many issues of special education.

Chairman OWENS. But the new Chancellor has taken certain steps in terms of altering the way special education programs are administered, am I correct?

Mr. NEVELDINE. Well, he has only been on a very short time. He is in the process of reorganizing. We are basically communicating with the same individuals we had in the past, but the whole structure of the Board of Education—as you know, there are many new Deputy Chancellors. We are going to be meeting next week with one of the Deputy Chancellors to reaffirm our on-going concerns with the New York City special ed problems and to try to work out with him how we might get the various plans in place and get progress on the various issues so as his organization gets further established, we will be working with them on these various issues, as we had with the administrations in the past.

Chairman OWENS. Will his restructuring require your approval at the State level?

Mr. NEVELDINE. Well, that is really a larger issue than special education but we will have to wait to see what the final restructuring is that the New York City Board of Ed has gotten approval for their restructuring they have done to this extent. We haven't had a proposal specifically in special education for a new structure yet, so, again, we would have to wait and review it on its merits when it was developed.

Chairman OWENS. Thank you. Mr. Payne?

Mr. PAYNE. I recall you saying that you—what is your opposition as relates to the 10 percent set aside for minority teacher training for historically black colleges?

Mr. NEVELDINE. Yes, we have no problem with that initiative but we are only asking that in conjunction with that initiative, that we look at the issue across all of the universities within the State also so that it doesn't become just a focus for those colleges. We truly believe based on the demographics of the State that all colleges should be looking at this issue and we should be trying to recruit and train the best qualified minority candidates we can find in the State since the population as we clearly know in the year 2000, is approaching one-third now it is going to be at least there by the year 2000.

Mr. PAYNE. We have heard in New Jersey in my town of Newark, I have heard some teachers complain about special education. I know this goes far beyond special education, but there tends to be a disproportion of a number of minority students that seem to be placed in the special education classes and in their opinions, although they are not experts, they are classroom teachers, many feel that minority kids are put into special education because they are hard to handle, they are discipline problems, but that they don't have learning disabilities. I am wondering whether in New York State or New York City has come across any allegations of that same problem and if anything is being looked into that situation?

Mr. NEVELDINE. We recently, a few months ago provided a report as required by statute to the Legislature. That report contains all kinds of data on how our programs in New York State across the board are doing with education. That report also cited a problem with over referral of minorities in special education, based on some aggregate data. The State Education Department who are officers are in the process of conducting a study to further look into this issue and to see if, in fact, there are practices or procedures in districts of similar compositions where one district has a higher percentage of minority students in special education and another district with the same proportion numbers of minorities don't have that problem. To determine what are the factors that cause the one school to have more students and the other school to have more of a balance so we are in the process of identifying those sites. We, obviously, are looking to get information for the New York City region and in about a year's time, we will have some findings from that report and I think which will basically be translated into training for districts, again, similar to the higher ed institutions. We have to raise the awareness of all the schools in the State about making sure that children of minority background are not referred for behavior problems or other kinds of issues that don't relate specifically to whether or not they have a disability, so, we are working on that issue and we have been I think very clear and up front with the Legislature that this is a problem we need to work on.

Mr. PAYNE. Mr. Chairman, have our committee, being a new member there, have we ever looked into this on a national basis or have we asked for any reports regarding this issue to your knowledge?

Chairman OWENS. Yes, we have studies that show that there is a national pattern of large numbers of minority children being re-

ferred to special education. There are some studies underway nationally.

Mr. PAYNE. I think I have no other questions.

Chairman OWENS. Well, thank you very much Mr. Neveldine.

Mr. NEVELDINE. Thank you.

Chairman OWENS. Is Ms. Sandra Feldman here yet?

Voice From Audience. No.

Chairman OWENS. Let's proceed then to Panel II. Ms. Celeste Owens and Ms. Sara Smith, Advocates for African-American Children. I think we have a written statement from one of you. Please don't feel bound by that statement. You may make any remarks that you wish or you may read the statement and then elaborate as you wish. We will begin with Ms. Owens, no relation, and I would like to ask you to identify the organizations that you are affiliated with since we did not have that on our witness list.

STATEMENTS OF CELESTE OWENS, PRESIDENT, DEAF ENTERPRISES, INC. AND SARA SMITH, ADVOCATES FOR AFRICAN-AMERICAN CHILDREN

Ms. OWENS. My name is Celeste Owens and I am a member of the Board of New York City Black Deaf Advocates, President of Deaf Enterprises, and former Acting Executive Director for National Black Deaf Advocates.

Deaf Enterprises is a for profit business which is personally run by myself. The purpose of it was to try to establish some kind of organization where we could bring hearing and deaf people together. The idea was to try to encourage more hearing people to take an interest in sign language, particularly people from the minority community.

Being involved with Black Deaf Advocates which is an organization that consists of eleven chapters nationwide, we have struggled to try to establish some kind of community based groups whereby we can address a lot of issues that effect people of a minority community.

I would just like to say first that I want to personally thank Congressman Owens for inviting me to come here and speak on concerns of this group.

This minority deaf community has struggled and struggled continuously because of the many problems they have faced. Areas of employment, education and upward mobility is a major task which needs to be addressed.

Traditionally for many years, people of this group were never prepared academically to succeed and provided with needed educated deaf role models. Over the last 20 to 25 years, this group has been continuously geared to vocational skill training programs to prepare for labor work. Because of this it has caused a continuous cycle of uneducated people of the minority deaf community.

These people are a group of people who feel or have felt for so many years that they weren't able to earn a college degree. Today, in New York City alone, there only exists five black deaf individuals who have earned a college degree. Something is terribly wrong when you look at the white deaf community and see so many more white deaf have been able to earn their degrees.

In the last ten years of my working as an advocator for the minority deaf community and having been raised by deaf parents, I haven a personal concern to seek solutions and ideas to better enable the community and to help uplift them. It has come to my conclusion that listening to deaf youths, adults and parents of deaf children who are from the minority community that there is a lot of frustrations when dealing with the agencies and schools and programs which provide deaf services to them. These frustrations come solely because of the inability of the minority deaf community to feel comfortable enough to ask questions and express personal concerns which effect their lives. Most of these agencies, deaf schools, and programs and predominantly run by individuals who are mostly white.

Today I would like to emphasize the need to develop a minority deaf community base center. This center could provide needed services and information, educational programs, and enable the minority deaf people to have access to needed support which would allow for a more enriching life.

This center would also become a viable setting whereby needed training of sign language could be provided to the people of the hearing community who also provide services to black communities or minority communities and it would allow for deaf people to have uses of that.

There exists very few black interpreters. This is another problem which exists in this community. The need to have access to black interpreters or interpreters in our community would then allow for these deaf people to always be able to attend various functions that exist in the community.

Schools and programs here in New York City as well as other schools outside, especially black colleges should be encouraged to train students about deaf culture and deaf community. It is becoming very important now to recruit more blacks in the field of deafness because of the large number of deaf minorities who want to achieve in life and is often faced with the struggle to succeed because of the lack of role models.

In closing, I would like to say the answer to many of these problems is the need to set up a minority base community where these people can come and feel comfortable, ask questions, and receive the information that is needed to uplift themselves. Thank you.

[The prepared statement of Celeste Owens follows:]

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March 26, 1990

Hearing-House Subcommittee on Select
Education (Cong. Major Owens)

My name is Celeste S. Owens, Board member N.Y.C. Black Deaf Advocates, President-Deaf Enterprises Inc., former Acting Executive Director National Black Deaf Advocates Inc.

I like to personally thank Congress Owens for inviting me to speak this afternoon on issues and concerns which effect the members of Minority Deaf Community.

The Minority Deaf Community has struggle and continues to struggle because of the many problems which are face by this group. Areas of employment, education and upward mobility is of a major task which needs to be addressed.

Tradionally for many years people of this group were never prepared academically to succeed and provided with needed educated deaf role models. Over the last 20-25 years this group has beeb continously geared to vocational skilled training programs to prepare for labor work. Because of this it has caused a continous cycle of uneducated group of people whom always thought they could never earn a college degree.

There exist perhaps 5 Black deaf who have been able to earn a college degree. Something is terribly wrong when you look at the white deaf community and see so many more white deaf have earn there degrees.

In these last ten years working as a advocator for minority deaf individuals and having been raised by deaf parents. I have taken personal concerns to seek solutions and ideas to better enable the community and to up lift themselves. It has come to my conclusion, listening to deaf youths, adults and parents of deaf children that there seems to be a great deal of frustrations when dealing with the agencies, schools, and programs which provide deaf services. These frustrations come solely because of the inability of the minority deaf community to feel comfortable enough to ask questions and express personal concerns with people who have tradionally been running all the Deaf Schools, Agencies and programs and whom are white.

Today, I like to emphasis the need to develop a minority deaf community base center to provide needed services information and educational programs to enable minorty deaf people to have access to all needed support which would provide a more enriching life.

This center would and could become a valuable setting whereby needed training of sign langauge could be develop to train other hearing blacks of the community to communicate and share other services in communities which they live.

There exist very few interpreters whom are black and are enable to become certified in the field of interpreting.

Schools and programs here in New York City as well as other schools and especially black colleges should be encourage to train students about deaf Culture and the deaf community. It is becoming very important to now recruit more blacks in the feild of deafness because of the large number of deaf minority who want to acheive in life and is often in a struggle to succed because of the lack of role models and people whom can communicate with them who are of their community.

Again, in closing I like to say the answer to the many problems of the minority deaf community is more minority service providers and a minority base community center which can provide the many more ares of socail, cultural, educational and training which would make change in the lifes of this group.

Chairman OWENS. Ms. Smith.

Ms. SMITH. My name is Sara Smith and I thank you for the opportunity to testify today before the House Subcommittee on Select Education.

I simply want to state before I go on with my testimony that I am filling in for my colleague Justine Strickland at the last moment so therefore I was unable to get my testimony typed up and prepared so I could submit in advance my testimony. However, I called your office this morning and they indicated that I did have a ten day period to get it in and I certainly will do that because I think this hearing is absolutely important.

I speak as a representative for Advocates for African-American Children, an organization that is committed to bearing a collective responsibility to give witness to the deplorable state of social welfare programs in New York City and State, which threatens the health and welfare, even the very safety of poor children, the majority of whom are African-American.

Therefore, we as Advocates for African-American Children are very interested in the hearings on the reauthorization of the discretionary funds of Pub. L. 94-142 that articulates set aside funds for education and training of minority professionals, mandated parent involvement, and targeted increases in minority providers of service.

The August 1989 report of the Mayor's Commission on the future of child health in New York City reported that of the 2 million children between the ages of zero and 19 years of age living in New York City in the 1980's, nearly 60 percent were minority. The current population survey estimates that in New York City in 1985 to 1986, 39 percent were living in poverty and an additional 21 percent of all children were near poor, that is, they lived in families with income levels below 200 percent of the Federal poverty level.

I would just like to read from that report specifically. "In 1980, half of the residents of New York City were white, non-Hispanic; 24 percent were black, non-Hispanic, and 20 percent of Hispanic origin or decent. Asians comprised 3.3 percent of the population while one percent was classified as other non-Hispanic. The latter category includes Laotian, Cambodian and Thai residents. In contrast, the distribution of children in New York City was almost even across, white, black and Hispanic populations. There has been an increase in the numbers of people emigrating into New York City since 1980 when approximately one-quarter or 23.6 percent of the City residents were foreign born. 1986 records indicate that 89,810 people became legal residents during that year, 16,000 from the Dominican Republic, 9,000 from China, 9,000 from Jamaica, 5,000 from Guyana, and the remainder from Latin America, the West Indies and Asia. New York City is also home for a large population of undocumented immigrants, over 120,000 applied for legal residency in 1987, 1988 through the Federal Immigration Reform and Control Act."

The Commission on the year 2000, that report, proposed that, "60 percent of the population in New York City will be non-white and Hispanic by the year 2000." Also, in this same report, I want to just go back again. "Against this dramatic background of transformations that had occurred in New York City's population, let us

consider the importance of the proposed amendment, education and training or the preparation of minority personnel."

The State Education Department sets minimum standards which include the number and type of credits teachers, school psychologists, guidance counselors, social workers and other educational staff in the State must meet in order to be certified. In New York City, in addition to fulfilling State certification or some similar requirements, professionals must be licensed by the Board of Examiners and Office of the City's Board of Education that was established pursuant to law. And I might say at this time there is still the consideration that that Board may go by the wayside and apparently the current Chancellor is indicating that he thinks it is another level that is not needed in terms of certifying teachers.

As a consequence of the critical shortage of teachers and other school professionals in New York City, the Board of Education was granted a waiver from the State allowing it to hire professionals, both in regular and special education who have not met certification requirements and/or who have not yet obtained a license from the Board of Examiners. These hires are referred to as temporary per diem persons. Special education temporary per diems need to have earned only a minimum of 12 credits in regular education by the time they begin teaching, but must make a commitment to obtain 24 additional credits in special education and to pass the Board of Examiner's test within four years. This was reported out in the report, "Special Education, A Call for Quality" which was issued in 1985.

Also, in the same report under the topic, "The Need For a Better Trained And Supervised Teaching Staff," I want to quote from the section that was titled, "The Need for a Better Trained and Supervised Teaching Staff." A United Federation of Teachers Union official testifying at the Commission's hearing stated, "One of the system's greatest needs is that of staff development. The teacher shortage, most particularly in special education, has forced the lowering of standards to an abysmal level. In special education, we now have the strange situation of expecting the least experienced minimally qualified teachers to educate the most difficult students with the most severe learning needs. Yes, there is a critical need in New York City for the training of minority personnel." And again, I refer to this report, to the Board of Education study indicating the over-representation of minority children in education. "A Board of Education study of the racial composition of special education found that although the ethnic composition of referrals to special education by and large reflected the composition of the public school population—blacks were overly represented in special education classes for emotionally handicapped. And albeit to a lesser extent in classes for the moderately mentally retarded. Although some non-minority children were assessed as emotionally handicapped or mentally retarded, a vastly disproportionate number of them attended classes in private schools at public expense."

Statistics on the racial composition of programs as of October 1983, that was available when this report was issued in 1985, indicate that blacks are still disproportionately represented in programs for the emotionally handicapped. Specifically, although black children constitute 37 percent of the total public school popu-

lation, they accounted for 53 percent to 56 percent of the students in programs for the emotionally handicapped in elementary and junior high schools. In programs for the more severely emotionally handicapped population, day schools and day treatment centers, blacks accounted for 65 percent and 51 percent of the population respectively.

While I am using this report that was issued five years ago, I will say that the Board of Education did a tremendous response to this report and because of the shortage of time, I tried desperately to get the figures in terms of what it is today, and I was unable to get them in such a short time. But, I do intend to pursue that because I would like to see in terms of what they proposed to do in view of the statistics that were given to them, how in fact or if in fact anything has happened in terms of alternating what the population in special education for minority children may be.

Another critical area for trained personnel is the emerging HIV preschool population into the educational system. While we might be low with the neediest coverage that the children are still languishing in neo-natal wards in hospitals or in foster homes, but today I know and you know that babies do grow up and have to move on with their lives.

I just want to again quote from the Prevention update on article, "AIDS and Developmental Disabilities" that was written by Dr. Gary Diamond and Dr. Herbert Cohen from the Rose F. Kennedy University affiliated facility. "Statistical projections developed by the New York City Department of Health Office of Epidemiological Surveillance and statistics based on data from the Centers for Disease Control, show that the number of U.S. pediatric cases had reached approximately 563 by August 1987 with an additional estimated 1,600 cases of AIDS related complex. These numbers are increasing rapidly with a projected 400 children to be born in 1988 in New York City alone, with symptomatic congenital human immuno-deficiency virus infection. Congenital HIV infected usually causes developmental delays and varying cognitive deficits which are evident in an overwhelming percentage of pediatric patients with both AIDS and AIDS related complex. Such delays are greater in children with AIDS as opposed to AIDS related complex, and often precede evidence of significant mental retardation in young children."

As we are going to serve this group of population, I support that I am not aware of colleges that are really doing an intensive training program to prepare teachers and other professionals to be working with this group of children. Based on current projections, HIV infections may in the next five years become the largest infectious cause of mental retardation and brain damage in children. The total number of Americans under age 13 with symptoms of an HIV infection could reach as high as 20,000 by 1991.

Against those stark statistics, we indeed do support the set aside for historically black colleges to participate in the training of personnel. There is a dire need for culturally sensitive educators who have a better understanding of the cultural characteristics of African-American children as well as other minority children.

We certainly support mandated parent involvement. Once again, I see as we are moving to the implementation of Pub. L. 99-457,

I am finding constantly that the professionals are taking over and saying to the parents or indicating to the parents that they know what is best for their children. It is critical that parents be a part of the educational or training process for their child. They must know what their rights are and their guaranteed rights in terms of legislation that has been passed.

Guidelines must be built in that guarantee real parent involvement and not lip service that too much of the professional community gives to it.

Just this past Friday, at the Orton Dyslexic Conference, I met a man who shared a story with me and he was telling of the years that he was doing—battling the Board of Education system here in New York City in terms of disagreeing with the placement of his daughter and subsequently his son. And in his battle even going through impartial hearings and everything he still was not satisfied. But he said and his words were, "I was blessed" that I did meet an individual in a tutoring program where he had taken his children, when he was not satisfied with the education that they were receiving in the special education system in this City. He met a retired woman who had worked many years with dyslexic children and as she began to work with his children she began to note that they had a lot of the dyslexic tendencies. Consequently, with her advocacy role that she played with this parent and his children, she was able to help him to get the placement that was most appropriate in the system for his children. In the process, as he was going through this, the advocate that was working with his children also recognized within the father many dyslexic tendencies. And, as a result of this interaction in the tutoring program and with this person, he also was tested and discovered that, in fact, he too was dyslexic, but he proceeded—the Pub. L. 94-142 law in school—nobody picked up anything about him but his comment was, He was blessed to come in contact with this person. And also because he said, "I knew in my life that there was something wrong but I didn't know exactly what it was." He told of all of the compensatory kinds of things that he used in his job and as he went about earning a daily living for his family. But, he too, as a result of his aggressiveness is also getting the help that he needs later in his life. But the story that he tells is repeated too many times by minority parents who don't have that kind of advocacy, who will assist them in helping to really see that their children are placed in the most appropriate setting.

An increase in minority providers within a community—I am only going to touch on that very briefly in closing, and just share with you my own very personal experiences. Three years ago I set about setting up—developing a New York City directory of programs serving children with special needs, birth to five, and so I didn't survey every City, because I could not find a list of these programs in one place. And in the process of finding out where those programs were, I also discovered that of all the programs serving this population of children in New York City, the only minority providers you could really refer to would be those providers who have programs in day care or have programs in Head Start. The other programs are predominantly provided by white providers.

This morning in a meeting with the Early Childhood Direction Center directors in New York City, I was told that there is going to be a school closing serving this population of children so my immediate question was, Why is the school closing, it has a full population and excellent program? And the only response that they were able to obtain was the fact that they said it was too far for the staff to travel. Now, it happens to be a program that is not located in the minority community as none of these programs are—that is another thing I discovered in putting these programs together—only the Day Care or the Head Start programs would be there. But all of the other programs, any child—as an example, in Bedford-Stuyvesant, would have to travel across Atlantic Avenue in the Flatbush area and Bay Ridge or wherever to get service and some of them even travel to Queens. So, this program is going to terminate their particular program serving the three to five population, and I am going to make inquiry to really see where they are going and why they are going. I may or may not get the answers but I will make the inquiry.

This is an important issue in the minority community and it is an important issue for the Advocates for African-American children as we embark on making sure that our children get the services that have been provided by legislation and we are going to see that their rights that have been guaranteed by legislation that they do indeed, get them.

I thank you for this opportunity and I will certainly have my typed testimony to you in the appropriate time.

Chairman OWENS. Thank you. I will begin the questioning with Ms. Owens. In your description of the lack of services for deaf people, are you focusing primarily on adults or do you mean children and adults?

Ms. OWENS. Children and adults.

Chairman OWENS. Are you saying that you are aware of the existing organizations—you do know about them, you have tried to get services from them, and the interaction has been inadequate, they have not responded adequately? Would you care to elaborate in your—in other words, why don't you just go to those existing agencies and use them. Why do you feel that they don't serve you properly?

Ms. OWENS. Okay, the problems they are listening to, the deaf individuals, adults and parents of deaf children continuously saying that they go to these agencies and are not being provided what they need. Yes, there are agencies that do exist that do provide the services that are needed by them. But, there seems to be some frustration as to, for example, wanting to go into a special program to allow them to perhaps go to college and they are denied to go for reason by measure of testing. When we as an organization, the Black Deaf Advocates, sit down and talk with some of the parents or some of these deaf individuals, try to talk to them and get a sense of where their intelligence is, it seems that they have a very good ability to go on to college, but because a lot of these things are judged by tests, they are then denied the opportunity to try or to get into a program to see if they could succeed. There has been this big misunderstanding or not enough clarity as to what OVR, Office of Vocational Rehabilitation. Many of the minorities

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go to these agencies and don't quite understand what they are supposed to do for them. They are only given what there is to offer and not explained what this is for. So, a lot of them leave frustrated and don't want to go back. Then they just sit home and depend on some kind of public assistance.

It just seems that there is a real serious problem with trying to make everyone understand what these agencies are for, what they provide for them. These people won't ask, they won't ask them because of fear of being continuously told, "No, you can't, no you can't, we just can't do this." So we just feel that there is a real serious need. We have met several people who have come to us and expressed their frustrations and say they don't want to go back, they just won't go back and then they will try to find these jobs or seek services in the hearing community and then that becomes another stumbling block because these people in the hearing community who provide services cannot communicate with them.

Chairman OWENS. It seems to me you folks seem particularly focused on the problems of students coming out of high school, going into the world of work, which this bill does attempt to address in terms of our concern for transitional services. Now, to have better transitional service programs in the existing high schools where deaf children attend, are you saying that would still be inadequate?

Ms. OWENS. Well, I can tell you personally from some people that I have talked to that in today's time, this is the generation of the Rubella children. There was a Rubella epidemic in the 1960's and these kids are mostly now in their twenties—I would say twenty-two to twenty-eight years old. There is a large population of them out here now. These are the people who are not able to succeed in getting a job because they weren't trained properly or didn't get the proper education while they were in school. Now, I am an interpreter, I am a sign language interpreter and I go to various programs to do interpreting work as well, so I have this opportunity to sit down and talk with some of these individuals who are in maybe some kind of programs and continuously I see that this person does not or should not be here. And then I question well why don't you go to college, and I hear, well they won't support me. Why won't they support you? They would say, "Because of my reading level or my background," whatever. But it frustrates me personally because I know there are a lot of other students who are not of minority backgrounds or being supported to go on to colleges or better programs. I just think that the Office of Vocational Rehabilitation has continuously denied a lot of the minority students to be able to get more than what they are offering them today. My mother, again, she being deaf herself, had come to New York, wanted to go on to college, and continuously called back to OVR over the years—not now any more because she is a senior citizen—have gone through that same process and I never understood that until now that I am involved with them, I see what is going on. They continuously put the minorities in these programs and not allow them really a chance to achieve something else.

I don't know what it is—the lack of minorities in the agencies who can communicate and understand their background I think is one of the biggest problems there. They don't understand the culture, the background that they come from to allow them the

chance to go on and try to do something better than taking these labor skill jobs that they should be doing something else better.

Chairman OWENS. Are they aware—are young deaf people in New York City aware of the specialized institutions that the Federal Government funds like Gallaudet University or the Rochester Institute of Technology?

Ms. OWENS. Sure, they are aware of it. A lot of them are coming back.

Chairman OWENS. They seek to get in?

Ms. OWENS. A lot of them are coming back. Those who are able to make it are coming back because of financial situations. I mean, they are not able to afford it but there are a lot of them who want to go somewhere. I mean, again, a lot of them are not prepared to go, we know that, that is reality. But, we are saying that because they didn't get the proper training. We think the system owes it to these people. We think that Gallaudet owes it to the minority community particularly. Again, my mother, she came from Florida enroute to go to college and at that time they didn't allow blacks to come in and that is why we have this large population of black deaf people who are not educated people, who have not had the opportunity to do better because this generation is a generation that has been lost, they didn't have their chance so therefore the young people that came behind this group only knew, oh, vocational training, get a job, nothing about continuing education. So, I think that in today's times, the minority community is owed in education regardless of financial background or reading skills. They are owed double the support that is needed for them because we don't have enough minority representation of people who have the ability to run agencies and programs because of this crisis that has happened over the years.

Chairman OWENS. So you are saying no special attention has been given to this particular program——

Ms. OWENS. Exactly.

Chairman OWENS. [continuing] in terms of remedial education or some special projects similar to those that we have for the hearing community?

Ms. OWENS. Exactly. Exception has to be made for this deaf minority community, I mean, there are people who have the ability but there is just not enough given to them. The problem is that they have—if you think of deaf people only relying on this institution or a place where people can communicate with them. You think of us as hearing people. We have, we can go and sit in the college setting or a training program and learn or continue to absorb information. A hearing impaired person doesn't have that access. Once they leave that place that is providing them this information via an interpreter or someone who can sign, once they leave that setting, that stops for them. You think of a child who is in school, their learning only exists from 9:00 to 3:00 while they are in that institution. Most of these children live in a home where no one else in the families communicates in sign language. So, how much can they learn? It is so important that we have to have something else besides the institution or these programs. They need to have someplace else to go. On the weekends, after school, after school hours, where someone else is giving them more. They

can't hear the radios like hearing people, they can't understand everything that is on television, they can't hear people talking on the bus. I mean, we have access, we have the ability to hear and continue to learn 24 hours a day, literally, these deaf people don't, and this is one of the things. The deaf people need extra, they need that extra in order to be able to succeed and continue to learn the way we learn normally.

Chairman OWENS. What would you estimate would be the population of deaf people, African-American deaf people in New York City?

Ms. OWENS. I can't get the answer. I have tried so many times, I can't get the answer. The last census that they had was 1970, in fact, I spoke to the executive director of the New York Society for the Deaf and he said they just don't have the answers. He had his own answers but he just didn't want to quote it because he felt that one group says something 400,000 and someone else says 30,000, but no one really wants to say. There is no one place you can get that answer.

Chairman OWENS. You don't have any idea of how many were impacted by the Rubella epidemic?

Ms. OWENS. Not at all, no, no.

Chairman OWENS. Ms. Smith—thank you Ms. Owens. Ms. Smith, you have mentioned a number of studies and reports, I am not sure my staff has them. May we get for the record a copy of the "Special Education: A Call for Quality"—is it possible to get a copy of that?

Ms. SMITH. I will see if I have another copy. This was issued in 1985 and I think I have an extra copy which I will be glad to pass on to you. The report of the Commission on the Year 2000, I am not sure that I can, in fact, get that but I still will try. The others I can get for you. I have the "Future of Child Health in New York City" which is an excellent document because the health of the children that certainly impacts on how they do educationally, that I can get for you, and I do have a copy of this directory even though it is out of date and I am in the process of updating it for you, yes.

The OWENS. You mentioned one that talked about over-representation of minority children in special ed. What date was that?

Ms. SMITH. That was the 1985 report.

Chairman OWENS. That is the 1985 report?

Ms. SMITH. However, as I indicated, and I still will try to do this to put in my testimony, I am trying to get an update on the figures to see where it is today so that we will have some idea of how much progress the Board of Education has in fact made in that area.

Chairman OWENS. Now, we seem to have a contradiction when we talk about the lack of services for minorities with disabilities on the one hand, and then we talk about over-representation on the other. Could you address that for a moment? Is it bad to have so many minorities in special education?

Ms. SMITH. Well, I can speak from a personal standpoint. I think what truly has happened is that the evaluation process is finding minority children too often eligible for special education service. My contention is I think many of the children that are put into

special education per se can operate in the regular classroom with other kinds of supportive services and health, in other words, the least restrictive environment, and when the numbers are so overwhelming for minority children and then those children who are white who are identified in terms of in need of special education. A large preponderance of them move over into special schools, private schools, which is paid for by the Board of Education. So, you have to challenge that kind of thinking.

Chairman OWENS. Private schools?

Ms. SMITH. Schools that, in other words, if they can't find what they call a placement in the City setting, then they can find a placement in a private school who can provide the service that that child needs, and that does happen.

Chairman OWENS. That same route is not available to minority students?

Ms. SMITH. Apparently it doesn't happen for minority students because the bulk of our children are in the public school special education program, and that is borne out, incidentally, by the same report that I had referred to before and that was, "Special Education: A Call for Quality," that is borne out in there, they have identified that as being true.

Chairman OWENS. Now, is that just a matter of needing counseling so they know how to do it or is it a barrier that prevents them from getting those kinds of services even if they had counseling? We funded this program, discretionary funding provides for parent training centers under Section 631. I think we fund 43 parent training centers across the country to help parents better make use of this program, the Education for the Handicapped Act, and all aspects of it. Have you ever heard of that program-parent training services?

Ms. SMITH. I am trying to think of where is the parent training center in New York City and as long as I have been in New York City, I really should know that and when I leave here I am going to go inquire because one of the things——

Chairman OWENS. Well, I don't think you will find it because there are none.

Ms. SMITH. Oh, all right, because——

Chairman OWENS. Except recently, I think that the Advocates for Children in Queens is the only one in all of New York City.

Ms. SMITH. Okay.

Chairman OWENS. But there are none in Brooklyn, none in Manhattan, none in Los Angeles, and none in Chicago. You have to apply for these grants. Discretionary programs means you must apply for these grants—$181 million worth of grants and if the people are not there to apply for them, they don't get them regardless of the need. That is an important point you must remember. They are not distributed according to need. We are trying to make some corrections here, and some adjustments to try to take care of that problem to some extent, but that is the way the funding is passed out. You have to apply, so those who are better able to write grants and write proposals, end up getting the grants, that is why you have across the country some densely populated areas with great need that don't have these centers. You talked about provider agencies and the absence of providers. Is anything being done to

help providers that—have African-American boards and sponsors. Is anything underway to help develop minority sponsors who can apply for these grants? On the other hand, you are talking about a very expensive proposition, you are talking about institutions that are going to be able to actually provide services for the children.

Ms. SMITH. Well, let me talk about the preschool population in terms of—and a good deal of these are private providers. Even just trying to get a program started in terms of putting it together and really organizing it and funding it, because a lot of it has to come personally and that is a hard thing to do, so that would almost preclude that minorities wouldn't be involved in this because you are talking about getting bank loans and that kind of thing and I know, as an example, one program in here that I know personally, they mortgaged their own home to do it, so that would almost preclude that people wouldn't be involved in that process.

But, I am also looking for a way hopefully that even the provider agencies that are predominantly minority who are providing other services may, in fact, be able to become providers in other areas, but again, they need the technical assistance in terms of being able to move out and branch out into areas in terms of providing service to special children.

Chairman OWENS. We also fund under this package resource centers that are supposed to be able to give technical assistance—regional resource and Federal centers. They are supposed to give technical assistance. Have you heard of them before?

Ms. SMITH. I am afraid not, do we have one in New York City.

Chairman OWENS. There is one serving the New York State region, is that the one?

Voice from the Audience. The one that serves New York State is in Vermont.

Chairman OWENS. The one that services New York State is in Vermont.

Ms. SMITH. Okay, all right. Yes, I've heard of it.

Chairman OWENS. We are not going to make the argument of what exists now is adequate. We want you to know——

Ms. SMITH. That they are there.

Chairman OWENS. [continuing] that we need to have some indications of what the deficiencies are in order for us to make the corrections.

Ms. SMITH. Okay.

Chairman OWENS. Well, thank you very much for your testimony and I hope that, in concert with my staff, we can figure out what data you have that we don't have yet and we can get some of the documents that you have mentioned. I want to thank you both for testifying.

I'm sorry, I am going to leave out Mr. Payne here. I thank you both for answering my questions. Mr. Payne?

Mr. PAYNE. Well, I think you covered all of the questions pretty carefully although I am interested in, Ms. Owens, you said there were about 12 or 13 affiliates in this organization that you have started?

Ms. OWENS. No, did I say that, no.

Mr. PAYNE. There was an advocacy group that you mentioned.

Ms. OWENS. Oh, yes, chapters, that is nationwide though. There are 11 chapters in the major cities—advocacy groups.

Mr. PAYNE. Is that the minority group?

Chairman OWENS. Give the name of it again?

Ms. OWENS. National Black Deaf Advocates with the local chapters by the cities. This is New York City, here in New York City, but they are all in major cities.

Mr. PAYNE. Is there one in Newark, New Jersey to your knowledge?

Ms. OWENS. No, we are trying to get one started there but it hasn't happened yet.

Mr. PAYNE. We have a Brew Street School which is in another building now but we have a very long term program for the deaf in the elementary sector of school systems and I would like to get in touch with you because I would like to put some people in touch with you.

Ms. OWENS. Okay, fine.

Mr. PAYNE. No other questions.

Chairman OWENS. Thank you again, very much.

Our next panel consists of Ms. Antoinette Parmet, Co-Chairperson, The School of Social Work Committee, The National Association of Social Workers, and Mr. Ira Kurland, United Federation of Teachers.

Mr. Kurland, we have a copy of your testimony and the entire statement will be entered into the record. You may read the statement or you may elaborate or do whatever you wish in terms of additional remarks. Mr. Parmet, of course, the same applies to you. You are asking who should go first, have you decided? Do you want Mr. Kurland to go first? Mr. Kurland.

STATEMENTS OF IRA KURLAND, UNITED FEDERATION OF TEACHERS AND ANTOINETTE PARMET, CO-CHAIRPERSON, THE SCHOOL OF SOCIAL WORK COMMITTEE, THE NATIONAL ASSOCIATION OF SOCIAL WORKERS

Mr. KURLAND. I want to thank you for the opportunity share some remarks with you today. My written testimony, covers much of what I want to say. I will read it through and that will give me the opportunity to stop and explain some points that may not be clear.

I wish to speak in favor of elements of the legislation before us. I represent 2,000 social workers and psychologists employed by the Board of Education of New York City. All of these are members of the Social Worker and Psychologist Chapter of the U.F.T.

The thrust of the bill's amendments to increase the role of minorities in the education process is laudatory. There is no question that New York City and elsewhere there is a great need for bilingual and minority social workers and psychologists.

Our concern is that the New York City Board of Education has engaged in an overzealous recruitment of poorly trained clinicians who must be acculturated. These clinicians have had difficulty in adjusting to New York City. They have largely been recruited in Puerto Rico and in other places outside of the continental United States.

The José P. stipulation which governs much of what happens in special education in New York City and its mandates for specific percentages of bilingual clinicians will inevitably lead to layoffs of monolingual clinicians and particularly to layoffs of monolingual clinicians who are minorities. The minority clinicians tend to have been the last hired and they will be the first fired, and this is a very serious concern of our chapter.

Tensions have been created by the Board's willingness to agree to the Plaintiff's demands even when there has been no rationale, no explanation as to why one-third of all psychologists should be bilingual and 50 percent of all social workers, even though psychologists are specified to be a number at 960 and the social workers are specified a number at 572—we have not gotten any explanation as to where these numbers came from or what the rationale for them was. We believe this is an error and leads to New York City losing dedicated professionals for no good reason.

We are pleased to see the inclusion of social workers and the highlight of the profession in this bill in related services and in other parts of the bill and we thank you for that. At a time when social problems are at the greatest, the Board of Education in New York City has failed to use those professionals trained to deal with many of these problems. I refer of course to child abuse, substance abuse, gang violence, high divorce rates and the extraordinarily high drop out rates from both regular and special education. We are urged that you mandate the use of social workers in all stages of the evaluation process for special education. Failure to do so leaves the local education agency, in this case the New York City Board of Education to act on whim and to provide less than the most professional service available.

In New York City, under the so-called enhanced model, social workers are involved in only one-third of the evaluations done for special education and those are the initial evaluations. To use an extreme example, this means that a student with social work involvement could be placed in a resource room program and one year later, with no social work involvement and therefore no comprehensive review of the student's home and community functioning and stresses in the home and community, could nevertheless be placed in a size seven or eight program, which is about as highly restrictive an educational setting as we currently have and that could be done without parental consent.

Turning to the proposal to establish a demonstration project in which an Ombudsman is created, we wholeheartedly support this concept. We furthermore believe that the Ombudsman should, in most cases, be a social worker. We say this because of the training all social workers receive in advocacy work. Some years ago the Board of Education had an Office of Student Advocacy, and it was a terrific program. Red tape could be cut, questionable or illegal interpretations of the public law could be stopped with a phone call. Today, no such office exists in any meaningful way. The U.F.T. often serves as the agency to intervene to get things done for students and to put a stop to inappropriate practices.

We urge that the Ombudsman be a part of the Board of Education, because knowing how this system works is an essential ingredient to getting things done. We believe that this Office should

report directly to the Chancellor's office. This will limit the possibility that a principal, community school district, superintendent or division head might interfere with the functioning of the Ombudsman office in order to make their functioning look better.

Something similar is already being done in New York City to ensure that handicapped children get services they required. We currently have a monitoring division that was formed as a result of the decentralization of special education. These monitors report to the Chancellor directly and are universally seen as being independent. The Ombudsman should have the ability to act quickly and decisively. He or she should also be knowledgeable about community resources which a family often requires, and they should also be trained interviewing and advocacy skills. We see this as a vitally important program.

We agree with the bill's intent tc do away with corporal punishment nationally. While it is illegal in New York City, we still see occasional abuses. More importantly, corporate punishment has no place in the Twentieth Century. It should be eliminated.

Thank you.

[The prepared statement of Ira Kurland follows:]

United Federation of Teachers

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TESTIMONY OF

IRA KURLAND, CHAIRPERSON

SOCIAL WORKERS AND PSYCHOLOGISTS CHAPTER

UNITED FEDERATION OF TEACHERS

HEARING BEFORE THE

SUBCOMMITTEE ON SELECT EDUCATION

REAUTHORIZATION OF PARTS C-G OF THE

EDUCATION OF THE HANDICAPPED ACT (EHA)

MARCH 26, 1990

Affiliated with the New York State AFL-CIO, New York City Central Labor Council and the New York State United Teacher

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I wish to speak in favor of elements of the legislation before us. I represent 2000 Social Workers and Psychologists employed by the Board of Education of N.Y.C. All of these are members of the Social Worker and Psychologist Chapter of the United Federation of Teachers.

The thrust of the Bill's amendments to increase the role of minorities in the education process is laudatory. There is no question that in N.Y.C and elsewhere there is a need for bilingual Social Workers, Psychologists and other professionals.

Our concern is that the overzealous recruitment of poorly trained clinicians who must be acculturated has led to problems for these bilingual professionals in their work in N.Y.C. The Jose P. stipulation and its mandates for specific percentages of bilingual professionals will inevitably lead to layoffs of minority monolingual clinicians. Minority monolingual clinicians tend to be the last hired and will be the first to be laid off.

Tensions have been created by the Board's willingness to agree to the Plaintiff's demands even when no one has been able to justify any of the percentages proposed. We believe this is an error and leads to N.Y.C. losing dedicated professionals for no good reason.

We are very pleased to see the inclusion of Social Workers as a profession in this Bill. At a time when social problems are greatest, the Board of Education in N.Y.C. has failed to use those professionals trained to deal with many of these problems (i.e. child abuse, substance abuse, gang violence, high divorce rates and extremely high dropout rates from both special and regular education). We urge you to mandate the use of Social Workers in all stages of the evaluation process (initial referrals, re-evaluations and triennial.). Failure to do so leaves the Local Education Agency (LEA) to act on whim and to provide less than the most professional service available.

In N.Y.C., under the so-called enhanced model, Social Workers are involved in only 1/3 of all evaluations and all of them are only initial cases. This means that with Social Worker input, a student could be placed in a resource room.

But, one year later, without Social Worker input and therefore without a careful and comprehensive review of how the student functions in his home and community, and without knowing what stresses in the home or community may be interfering with his adjustment and achievement in school, the same student could be moved to SIE 7 or 8 which is a highly restrictive education setting - WITHOUT parental consent!

Turning to the proposal to establish a demonstration project in which an ombudsman is created, we wholeheartedly support this concept. We furthermore believe that the ombudsman should, in most cases, be a Social Worker. We say this because of the training all Social Workers receive in advocacy work. Some years ago the Board of Education had an Office of Student Advocacy, and it was a great program. Red tape could be cut, questionable or illegal interpretations of PL 94.142 could be stopped with a phone call. Today no such office exists in any meaningful way. The U.F.T. often serves as the agency to intervene to get things done for students and to put a stop to inappropriate activities.

We urge that the ombudsman be a part of the Board of Education, because knowing how the system works is essential. We believe this office should report directly to the Chancellor's office. This will limit the possibility that a principal, community superintendent or division head might interfere with its functioning.

Something similar is already being done in N.Y.C to ensure that Handicapped children get the service they require. We currently have a monitoring division that was formed as a result of the decentralization of special education. These monitors report to the Chancellor and are universally seen as being independent. The ombudsman should have the ability to act quickly and decisively. He or she should also be knowledgeable about community resources which a family often requires, and they should also be trained in interviewing and advocacy skills. We see this as a vitally important program.

We agree with the Bill's intent to do away with corporal punishment nationally. While it is illegal in N.Y.C., there are still some abuses. More importantly, corporal punishment has no place in the Twentieth Century. It should be eliminated.

Thank you.

Chairman OWENS. Thank you. Ms. Parmet.

Ms. PARMET. I am speaking to you as Co-Chairperson of the School Social Work Committee of The National Association of Social Workers, New York City chapter. The comments included in this statement will also include positions taken by the National association which is centered in Washington.

Having been a school social worker and supervisor in the Rochester school system and in New York City school system for forty years, I am very happy for the opportunity to speak to the Select Education Subcommittee on such important issues related to the current draft of the Education of the Handicapped Act reauthorization. I thank you on behalf of the social workers who serve these families and the parents, children and youth with disabilities. I really do appreciate this very much.

My comments are related to four issues. First, we want to congratulate Congressman Major Owens and the committee members on adding social work services both to the definition of related services in Part A and to the definition of early intervention services in Part H. I am adding this without amplification what Mr. Kurland just mentioned about including our social workers in the assessment process is very much with keeping with our tools so that we would like to request that that be additional in the bill.

Hardly a day goes by that we don't hear of severe social problems of our society which effect children, such as poverty, child abuse, crack addicted children, children born with AIDS, teenage pregnancies, school drop outs, suicide, et cetera. The school is the one hopefully stable focal point for children and families in need, children with disabilities are a large part of the school population, are in need of social work services to help them through their educational, emotional and social growths so that we feel very strongly that there should be legally stated in the law the value of social work.

In the past five years, a number of school social workers in the New York City schools has been decreasing and being replaced by educators and guidance counselors who have specific roles which are not necessarily those of social work. We feel that the inclusion of social work services in the EHA will encourage the Board of Education to recognize the necessity for increased numbers of social workers to provide work with families, linkages to community groups, counselling and advocacy. These services are especially important to children with special needs. It has also been noted here that the children who are in the program with special needs are often minority children who have tremendous social needs to be met. Therefore, the technical amendments are very important and we support them.

The second issue is the Ombudsman provision. The National Association of Social Workers in the New York Chapter supports the creation of a new Ombudsman program to assist in resolving problems which are barriers to special education, related services or other services for children and youth with disabilities.

Mediation and advocacy are valued as traditional roles for social workers. I did refer here to the New York City Board of Education Advocacy Program which Mr. Kurland ha already mentioned. I have the experience of working directly with them as a supervisor

and I found it very very helpful. I found a service being given that was not available elsewhere. Even the Advocates for Children program were not able to provide the services that the advocacy program within the New York City schools have available to special children. There are parents that wanted to have an advocate to assure that their rights were protected and there are parents who question the decision related to their children's placement or services, and there are parents who had specific complaints that they felt were not being addressed by the bureaucracy. The Office of Advocacy had been under the Chancellor and had the support and authority to mediate and advocate for these parents and they had a staff which really took that service very seriously and very successfully I believe.

There service of a social worker in this role was very effective to special education children and families and also to members of staff. The staff referred problems to the advocate group when they felt there were groups of children not being served for their other problems.

We are very pleased to see this Ombudsman provision in the bill. The school social workers in New York City who work hard to support the promotion of this program is discretionary funds are available. As best we can, we will have to learn how to do that but we do have an organization which, along with others, will work hard to try to make use of those funds.

The AIS study in the New York City Chapter also recommends that these provisions require timely reporting requirements for the Secretary of Education to Congress on the nature of any demonstration projects and the results of such activities.

There is the corporal punishment. We strongly support Section 104 for the prohibition against the use of corporal punishment of children with disabilities. In August 1989, there were 19 states, including New York—I think that the State now or is it you said the City—had banned corporal punishment for the entire school system in regular ed and special ed.

All of the major European countries do not allow teachers to hit children. Social workers, as might be expected, certainly do oppose strongly corporal punishment of children. In the society which is becoming so violent, the use of corporal punishment in schools gives the message to children that violence is an accepted method of handling problems, we hope that school systems will be very active in trying to help children solve problems in a more acceptable manner.

We also have a very great concern about child abuse which many of us who have worked in the school system have seen in various forms and corporal punishment can lead to this especially when the person who might be afflicted with punishment loses control or has needs that are beyond what the situation calls for.

There are other factors but I don't know that we have to go into that, but social workers do hope as do all other people, parents and children and all of us that schools can be a haven where humanity and human rights are respected and taught. We are in a pretty sad state if we are not going to be seeing that as part of our role in education and children with disabilities especially require this basic trust as do all children and that trust is very much threat-

ened and lost if corporal punishment is seen as an acceptable way for adults to serve children.

The EHA legislation is a good opportunity for Congress to legislate the banning of corporal punishment of all children, at least this would be a beginning.

Fourth, the NASW and the New York City Chapter support the proposed change to the title of the Act to Individuals with Disabilities Education Act and the general terminology throughout the Act. The new title is preferred as being less discriminatory and more positive.

We also recommend that the name of the Office of Special Education Programs be changed to the Office of Special Education and Related Services. This will further contribute to the focus on important related services and the proposed legislation.

Thank you very much for the opportunity to present this position paper and we wish the committee success in those areas that really require their help. Thank you.

[The prepared statement of Antoinette Parmet follows:]

NASW

NEW YORK CITY CHAPTER • NATIONAL ASSOCIATION OF SOCIAL WORKERS • [illegible] • TEL. [illegible] • FAX: [illegible]

TESTIMONY

Given before the Select Committee on Education,
Chairman, Representative Major Owens

March 26, 1990

I am speaking to you as Co-chairperson of the School Social Work Committee of the New York City Chapter, National Association of Social Workers. The comments stated will also include positions taken by the National Association of Social Workers.

Having been a school social worker and supervisor in the Rochester and the New York school system for 40 years, I am very heartened by the opportunity to speak to the Select Education Subcommittee on such important issues related to the current draft of the Education of the Handicapped Act re-authorization. I thank you on behalf of the social workers who serve those families and the parents, children, and youth with disabilities. My comments are related to four issues. First we want to compliment Congressman Major Owens and the members for the Committee for adding social work services, both to the definition of related services in Part A and to the definition of "early" intervention services' in Part H.

Hardly a day goes by that we do not hear of the several social problems of our society which affect child abuse, crack addicted children, children born with AIDS, teenage pregnancy, school dropout services etc. The school is the one hopefully stable focal point for children and families in need. Children with disabilities are a large part of the school population and need social work services to help them through their educational and emotional and social growth.

In the past five years, the number of school social workers in New York City schools has been decreasing and being replaced by educators and guidance counselors. We feel that the inclusion of social work services in the E.H.A. will encourage the Board of Education to recognize the necessity for increased numbers of social workers to provide work with families, linkages to community groups, counseling and advocacy. These services are of special importance to children with special needs. The technical amendments are therefore, very important. We should like to request that social workers be added to the assessment process in the E.H.A..

Second Issue:

Ombudsman provision (part E Section 641 new (O).

The National Association of Social Workers, and the New York City Chapter support the creation of a new ombudsman program to assist in resolving problems which are barriers to special education related services, or other services for children and youth with disabilities. Mediation and advocacy are valued and traditional roles for social workers. The New York City Board of Education had an advocacy program for special education until 1985. As a school social worker, I had frequent occasions to use the services of the social work advocate. There were parents who wanted to have an advocate to assure that their rights

were protected. There were parents who questioned the decisions related to their children's placement or services. There were parents who had specific complaints which they felt were not being addressed by the Bureaucracy. The office of advocacy was under the Chancellor, so that it had the support and authority to mediate and advocate these problems. The services of social workers in this role were very effective to special education children, families, and members of staff.

We are very pleased to see this ombudsman provision in the Bill. The school social workers in New York City will work hard to support the promotion of this program if discretionary funds are made available.

The National Association of Social Workers and the New York City Chapter, also recommend that this provision require a timely reporting requirement for the Secretary of Education to Congress, on the nature of the demonstration projects and the results of project activities.

Third Corporal Punishment

We strongly support sec. 104 prohibition against use of corporal punishment of children with disabilities.

As of August, 1989, 19 states including New York, have banned corporal punishment for their entire school system. All the major European countries do not allow teachers to hit children.

Social workers oppose corporal punishment for many reasons. In a society which is becoming so violent, the use of corporal punishment gives the message to children that violence is an accepted method of handling problems.

Corporal punishment can lead to child abuse in the hands of a teacher who loses control. It does not improve a child's behavior or mental state, but can promote anger and mistrust. It interferes with the possibility of establishing trust between a child and teacher which is essential in the educational process.

We hope that schools can be a haven where humanity and human rights are respected and targeted. Children with disabilities especially require this basic trust as do all children. The E.H.A. legislation is a good opportunity for Congress to legislate the banning of corporal punishment of children.

Fourth:

The National Association of Social Workers and the New York City Chapter support the proposed change in the title of the act to "Individuals with Disabilities Education Act" and the general terminology throughout the act. The new title is preferred as being less discriminatory and more positive.

We also recommend that the name of the office of Special Education Programs be changed to the office of Special Education and Related Services. This would further contribute to the focus on important related services in the proposed legislation.

Thank you for the opportunity to present this position paper to you. We wish the committee success in their efforts in behalf of the children and families in need of their help.

Chairman OWENS. Thank you. We appreciate testimony from people who are on the firing line. We have included in our deliberations on this bill—and those deliberations have been going on now for some time—the recommendations made by social workers. Their wisdom, we hope, is included here and we hope that we would have their support in continuing the fight. We have yet to pass the bill. Of course, the Senate has passed the bill already and we will have to negotiate that through. We are going to need all of the support we can get for various provisions of our bill which we think are innovative and forward looking.

Some of those innovative and forward-looking ideas and requirements are included under personnel training. For example, making it clear that the personnel training funds under Section 631(a) and (b) can be used for minority special or minority regular educators. That is, the problem you have of improperly trained people may be addressed by some of the funds that are received by the organizations that do the training of personnel, there are some colleges and universities in this area that do receive those funds. We also established that a requirement for receipt of a fellowship is that it be repaid via regular procedure or by working in the field. Now, this is a proposal which we don't know whether it is going to pass or not. We are getting ahead of the Higher Education Assistance Act which hasn't yet approved that kind of procedure, but we are offering it here.

Under parent training centers, we have in our bill—at this point we authorized funding for five new demonstration centers under the parent training center program to serve large numbers of special education students located in high density areas. Now, in order to take advantage of that, we need the help of local organizations to see to it that some organizations are recruited which can prepare the grant, meet the requirements, and compete for the grant under the discretionary process. So, those things would require some support from professionals across the board who are interested, and certainly from social workers also.

I wondered about your complaint that the Jose P. case has fewer social workers to begin with and a greater percentage are required to be bilingual. What is the impact of that? Is there some reason why they didn't do that for psychologists?

Mr. KURLAND. They did it for psychologists but at a lower percentage.

Chairman OWENS. There are more psychologists you said?

Mr. KURLAND. The stipulation calls for there to be 960 psychologists and it froze the number of social workers at the number that it was at on the day the stipulation was signed and that was 572, and it called for one-third of the psychologists——

Chairman OWENS. That was not the case for the psychologists, they didn't freeze the number?

Mr. KURLAND. No, no, it called for great increases. The number at the time was probably like 600.

Chairman OWENS. Six hundred?

Mr. KURLAND. Yes.

Chairman OWENS. Well, what is the impact of that on the decision-making evaluations, I think you called them?

Mr. KURLAND. Well, first on a human level, the impact is that over time, if our current staff does not become bilingual they will be displaced, they will be let go and specifically, we have the concern that more and more of our newer hires who have successfully made it through the college, education and training process and who are minorities, largely African-Americans, are the least senior people and would be the first to be let go so we are concerned about that. In terms of the evaluation processes, there are fewer social workers, they become more itinerant and are covering a larger number of schools and are moving around a lot more. So, the Jose P. case has picked up steam in terms of pushing for increased compliance. We hear more and more complaints that social workers are being pulled back into the evaluation process, but that is being done with sort of a wink and never acknowledging it publicly so that they have many different jobs that they have to do. Fifty percent of their time is supposed to be spent in doing counseling with regular education students and that is under the ERST program, and it is hoped that that over time would address some of the problems that were raised by previous testimony which really has to do with preventing students from entering special education, minority or otherwise. The New York City public school system, as I am sure you are aware, is a majority of minorities, something like 70 to 80 percent of the student population.

Chairman OWENS. It is generally recognized that there is a problem with an over-representation of minorities in special education. I am trying to relate some of the problems to the bill and the programs that are funded under the bill. If we had more parent training centers or parent participation, would that have a positive impact in terms of preventing referrals of youngsters who should not be referred into special education—do you think it would have any impact? Is that a place where we should put more resources in order to combat that kind of problem?

Mr. KURLAND. My personal opinion, well, I'll pass it on. My personal opinion is that it would have a positive effect because very often we see our parents being so overwhelmed with just managing, getting through the day with financial problems, housing problems and all of the other social problems that you can think of, and then they get a letter from the school saying your kid isn't really making it and somebody sticks a consent form in their face or, in the case of the kid who is already getting some help through resource room program, well, now he has to go on to a class for emotionally disturbed. It is easier for them to consent then to challenge it and I think that the parent training centers would address that problem in a significant and positive way and I think it would prevent kids from getting into special education.

It would probably also move, at least in New York City, I think that increased parental role would move the Board of Education into doing some more services for regular education. Currently, although there is variability from district to district and school to school, there is practically nothing, so if a school based support team gets a referral and the kid needs some kind of help, if it is not in that school, they have the choice of giving the kid nothing or of providing some kind of special education service, and that is an ethical dilemma that teams face every single day.

Ms. PARMET. I think in addition as you well know, social workers certainly are committed to parent involvement and helping parents to know their rights and to exercise those rights, and I think in a program or parenting groups you have the additional ability for empowerment of parents which is not always available in an individual situation so that I think that that would be a very important factor because even though we may speak of the fact that maybe parents would recognize that they should have an opportunity to have other services available to their children like remedial reading or social work services or other kinds of services, recreational, all of the things that might help a child to make a better adjustment in school and in life which a parent would have to be pretty strong to fight for. But, if a group of parents got together and asked themselves why is this happening, we have the opportunity for helping parents to become empowered to do something about it and I think that is the additional factors that parenting centers would give to this and that is really needed I think in order to address this problem.

Chairman OWENS. We have included the Ombudsman experiment in the bill because we believe it is a good idea. However, we see it as being a good idea for the entire Nation. I wonder if New York City's experience with the Office of Student Advocacy tells us anything. Do you think it should a be centrally placed activity so that it can't be stifled at the lower levels? The Office of Student Advocacy was discontinued. I wondered is there a likelihood that the hostility at the higher level would also nullify the benefits that might be offered by an Ombudsman approach—would you care to comment on that?

Ms. PARMET. Well, the experience I had with the Advocacy program in the school itself was very helpful. In the first place you would have to assume that the Chancellor is positive about having an Advocacy program because without that I think we would be in big trouble, or at least willing to act like it. And, if the fact that the advocates had——

Chairman OWENS. And you said the present Chancellor is on record as being positive?

Ms. PARMET. Oh, I don't know what his——

Chairman OWENS. Oh, okay.

Ms. PARMET. [continuing] I would hope——

Mr. KURLAND. He is on record.

Ms. PARMET. He is, he is. He certainly gives us the indication that to expect that.

Chairman OWENS. If that is the case, we would like to put it on the record.

Ms. PARMET. We would expect that of him from all that we have seen. The fact that the Advocacy group program was under the Chancellor last time, gained it a lot of power and authority and we were able to get things done quickly. I know that if I got a call from the Advocacy Office or one of my staff members, it was handled immediately and it was followed up and a report was given. I really feel that we paid more attention to that to almost any other kind of a complaint or question that came and then if there were a series of cases that came from a school, for example, that came to the attention of the advocates, which may or may not have come to

my attention, they would look at the pattern of the district or of the school and address that and I think they would address it not only with the people in the school from an exploratory and planning basis, but also with the Chancellor. It was very unfortunate that that was discontinued and I would love to see that expanded and really put into effect. I think that is different from the empowerment you would get from a parenting group.

Chairman OWENS. One last question—would that approach help with the problem of referrals of youngsters into specialized programs out of the school system, how certain groups get referred and take advantage of those programs while the other referrals are significant for minority students? Would that be helped at all by an Ombudsman program?

Ms. PARMET. Are you talking about the private school program?

Chairman OWENS. Ms. Smith, I think, mentioned before that there are specialized programs which can better handle the problems that the youngsters. But only certain groups of youngsters get referred, and most are not minority youngsters.

Ms. PARMET. Well, first knowledge of the process which is not always available to the poor and to minority groups as readily as they might be to other groups, so that if you don't have somebody there to really say you have a right, if you signed that this placement does not seem appropriate or is not appropriate or if the applicant believes it is not appropriate, to help the parent to understand what their right is in terms of a private school which is—knowledge is a pretty powerful thing at that point. I also think that in an empowerment group you would have—parents would have that knowledge without necessarily having to go elsewhere, but I know Ira has something he would like to say.

Chairman OWENS. You were shaking your head Mr. Kurland as if you don't think these groups are worth being referred to?

Mr. KURLAND. No, I think that the Ombudsman would be a tremendous help. I shook my head—I am not so sure that private schools do so much of a better job than the public schools do in terms of the specialized programs, except for kids who have very severe handicaps who require the services of let's say a UCP. But, when we talk about kids with learning disabilities or emotional problems, I really am not convinced that the large school which gets a lot of business from a board is really that much better than the programs that we provide in the public school systems. But, we do know that middle class parents who have their kids in the public school system, if they are identified with any kind of learning problem, they tend to use all of their rights. They go through impartial hearings and they push and they push and they hire lawyers and they wind up with their kids in private schools and we all pay for that and maybe that is something that we should be looking for for everyone but I would prefer to think that the better thing to do would be to do that for only those kids who needed those very specialized services and keep those private schools for that and for the rest of our kids, we should provide the best possible education for them in public schools. After all, that really is the intention of Pub. L. 94-142.

Chairman OWENS. So, you don't think it is a tragedy if large numbers of minorities are referred to special education programs

because they will be taken care of properly there, is that what you are saying?

Mr. KURLAND. No, I didn't say that. I think that what I was trying to say is that the referral outside to private schools is not necessarily, I think in the public interest. I am not convinced about that. I think that there is an over representation of minority groups in special education and I think the reason for that is what I said earlier is that there are very few services in regular education. There is some variability, some districts have more than others.

Chairman OWENS. You are contradicting yourself now.

Mr. KURLAND. What did I do?

Chairman OWENS. You said they are over represented because there are very few services in regular education, but you said that it gains nothing if you refer them outside.

Mr. KURLAND. Well——

Chairman OWENS. There is no where for them to go is what you are saying?

Mr. KURLAND. No, what I am saying is, I think that a lot of minorities and other students in the public school system are referred to special education and are placed in special education because there are no services in regular education and I think that that is a mistake. I think that the private schools that are highly specialized should be used for those kids who cannot be served in the public schools and I think that the public schools need to move themselves as much as possible towards quality both in regular and in special education schools.

Chairman OWENS. Yes.

Ms. PARMET. Your question about the placement of minorities into special ed, I would like to mention that I did a study in a high school level of children trying to work with children to prevent special ed placement unless it was absolutely necessary. I was working in a unit of children who were suspended from high school because of weapons and they were really hard, tough kids to work with. Normally, in all of the other boroughs, these children were immediately referred to special ed for study and at that time the statistics were 97 percent of anyone who was referred to special ed was placed in special ed.

Chairman OWENS. Well, discipline problems is not one of our categories though.

Ms. PARMET. Well, still, we have a social work unit who worked with these children and they had attempted social work care. This could happen with learning disabled children as well and we ended up with only 20 percent of the children having to go into special ed. I think it was a very important finding and it was 125 children that we had handled for that one year and I just would like to say that because I think the social work service that was given was the ideal type of social work service and enough time and enough attention and very good supervision.

Chairman OWENS. So you said if you have the properly trained personnel with integrity, then the bad referrals would be corrected by another mechanism and they would be put back into proper channels.

Ms. PARMET. Right, right.

Chairman OWENS. I want to thank you very much and I yield to my colleague Mr. Payne.

Mr. PAYNE. Well, I am sorry, I missed most of the testimony. But, I was wondering do you have any idea how—I know we heard of several studies that are being done and studies that have already been concluded which indicate that larger percentages of minority youngsters are referred to special education and it has been alleged that it is because of disciplinary problems. How would you be the one to go about trying to test that or how could you find out if this were so other than the studies, and secondly, well primarily, would you retest or reevaluate or how could you go about changing that?

Ms. PARMET. That is not an easy one but it is funny because today I just read something by Eric, the testing service in Princeton in which they addressed the problem of and made the statement that they felt that the minority children were placed because of discipline problems that could not be handled and were not necessarily placed because of a handicapping condition that might have warranted it and they are doing studies and have done studies on it. I didn't get to see the rest of it because I came here but I do have some material on that that I can copy and send to you because it addresses this and I really haven't done that kind of thing but I really find a point to what you are saying.

Mr. PAYNE. I really appreciate that.

Mr. KURLAND. Let me just comment on something that is a little bit different from the question you have asked. In Mr. Neveldine's testimony, he pointed out that across the state, 66 percent of students in special ed are labelled as having learning disabilities. This is probably the most controversial of classifications and many people that work with these students over time are not convinced that they are learning disabilities. They believe that they are classified as learning disabilities because they don't quite fit into another category. Some of these kids may simply have deprivation of learning experiences because they come from poor homes and so they are not at the exact right learning level when they are evaluated, but that doesn't mean that they have a learning disability. There are some clear definitions of learning disabilities even though it is a controversial one.

Some maybe labelled as learning disabled even though their problems are primarily emotional because if the parents are assertive and they don't like that classification, people may move over into a classification that is more acceptable and I think disability is more acceptable. I think that what we need to do is to look not only at the kids who are initially referred and what that placement process looks like and make it as good and as clean a process as possible and then we need to look at the numbers of re-evaluations that come in, tremendous numbers come in every year and kids tend to be moved instead of out of special education into a more restricted environments and that I think is a concern that my constituents talk about all the time. We need to see a flow out of special education instead of just up the ladder in special education.

Mr. PAYNE. Thank you Mr. Owens.

Chairman OWENS. I want to thank you again and we hope to end our deliberations on this bill and have it before the full committee

within the next two months. We are proposing, although we didn't discuss at this time any authorization figures, to increase the funding at least to the point of taking into consideration the purchasing power of the dollars as they were in 1979 when the funding level was frozen. We find that following this formula, we will come out with about $230 million for the discretionary programs instead of $181 million. The biggest increases in there would be in the direction of trying to get more funding to develop better quality personnel. I hope that in the meantime, New York City doesn't reorganize and restructure to the point where you are not able to make use of the additional funding that might provide some additional qualified personnel.

I want to thank you all again for coming. The hearing is now adjourned.

This is on the record. We will take comments. If anybody here wants to submit a statement in writing, the record will be open for the next ten days and we will receive written testimony from anybody who wishes to submit written testimony. You can check with staff at the table over here on your way out and they will tell you where to send it. We will accept written testimony from people who have testified, as well as those who have not testified. We will now take statements from the two people who wanted to make them. Will you identify yourself?

STATEMENT OF DR. BETH BERNSTEIN

Dr. BERNSTEIN. Yes, my name is Dr. Beth Bernstein and I am a supervisor of psychologists and social workers at District 1 in Manhattan which is the lower east side, and there are mainly two issues I want to address. The first issue——

Chairman OWENS. Can you limit it to about three minutes?

Dr. BERNSTEIN. Yes, I think so, I am pretty succinct. Number one, I really would like to support whatever was said about enhancing social work services. I think the fact that we don't have social work services at the re-evaluation level is just abominable because the staff that are doing those updates of home situations and what is happening in the environment are feeling that they are not coping well with it. We have tremendous, tremendous problems with AIDS, abuse and so on. Everything that everyone has mentioned, I don't want to reiterate it, but I just want to echo what a tremendous need it is that we are not servicing our children by not having this service at this level and the flow into MIS II programs which in New York City is the program generally for emotionally disturbed and then into a Size 7 which is for severely emotionally disturbed, goes almost unchecked without real intervention at these re-evaluation levels. Just to be involved in the initial phases is really only a starting point. Sometimes once a parent is involved with the process, we can better interact and deal with some of their concerns because now they are connected to a program, they are connected to issues, they have started perhaps dealing with things, so that is one point.

The other point is that in this system and the way the evaluation process works, there has been a real constraint on the use of psychologists in New York City functioning. What psychologists tend

to do almost I would say 85 to 90 percent of their time are evaluations with no real interaction around intervention, either primary intervention or secondary intervention again at these re-evaluation stages because the demand and the mandates and the paperwork in order to do the evaluations is primary in terms of legal mandate.

My concern is that we be permitted in some structured way to spend more time in the consultation pre-referral process and that has typically been seen or not typically but occasionally been seen as an interference in a referral process instead of a way to really deal and try other methods, other approaches other ways of working with the parents, with the teachers, with the child and so on, and that I would hope that even though we would want to be timely and the appropriate evaluations of students for services that we recognize that there is a time for consultation and pre-referral intervention and in that way better utilize the 962 psychologists that Mr. Kurland referred to that we have in the system who as well are not using services, their training in I think the most effective manner.

Chairman OWENS. You authorize for 962 psychologists. Do you actually have that many positions filled?

Dr. BERNSTEIN. I don't know how many.

Voice From Audience. Not yet.

Dr. BERNSTEIN. Not yet, a little short.

Chairman OWENS. Will you state your name again so we make sure we have it for the record?

Dr. BERNSTEIN. Yes, it is Dr. Beth Bernstein and I am in District 1, Supervisor, both social workers and psychologists.

Chairman OWENS. Thank you.

Mr. PAYNE. May I ask you a question—you mentioned that, and I don't recall the specific category you used, but you said the child will go from one category into a worse situation.

Dr. BERNSTEIN. Right, more restrictive service.

Mr. PAYNE. More restricted, okay. Do you see much children going back into the regular setting or do you tend to find the trend they will either stay in special ed or then go into the more restricted?

Dr. BERNSTEIN. Well, the decertification rates are like one or two percent at most so that says it all as far as I am concerned, and the issue is support in the mainstream. If we had more social work services, more support services in the mainstream—the only time children get any attention is when it is bad enough to get referred and we have to do more to support throughout the state ERSS, educationally related support services, is a multi disciplinary team of psychologists, social workers, guidance counselors. In New York City, it is only social workers because a psychologist can't possibly be spared to do anything with the mainstream because they have to do all the testing. And, as far as I am concerned and most psychologists are concerned, testing is only part of a process. It is only a way to help identify whether you should do intervention and they never get a chance to do intervention and that is the real tragedy and because certainly the salaries—and we are spending a great deal on this process, and we are not getting back in terms of real input with families and with teachers and so on, follow up on

that wonderful evaluation. It is unfortunately more paperwork and less real intervention.

Mr. PAYNE. Do you find that the special education teacher is better or generally less qualified than a regular classroom teacher? We know they should be, I guess, more——

Dr. BERNSTEIN. Well, I think since the need has been greater in special ed for teachers, some of the newest teachers are going into special education. They need support, they need a lot of supervision, again, we are very burdened as supervisors and I know the special education supervisors in my district are burdened with the amount of bureaucratic work they are involved with. There is a tremendous need for training and support for staff. I would not approach a generalization but needless to say that if there is more need for teachers in special ed then the newer teachers are going into that area and traditionally, that was the area that teachers who went for specialized training for masters in special ed went into, so I think at this point you have a mix of some teachers who were excellently trained and have a lot of background in this area, and those who are struggling to find out and to work it through and to deal the best they can with their new teaching assignments.

Chairman OWENS. Thank you.

Dr. BERNSTEIN. Thanks again.

Chairman OWENS. Thank you. The last person.

STATEMENT OF MARY ECKLES, AGENCY FOR CHILD DEVELOPMENT

Ms. ECKLES. My name is Mary Eckles and I am a social worker for the Agency for Child Development with my field office being in downtown Brooklyn.

I was very, very impressed with the testimony that I have heard this this day. Some of my colleagues in the room, Evelyn Abelson and Rita Hall have told me from time to time about the fact that we do not have enough social workers or there is a freeze over social workers and I have gotten a very general limited understanding of what is happening in this particular field so it has been a very, very educational experience for me listening to Sara Smith who I worked with in Head Start when we first set up the program to talk about some of the ills that are going on out there—it is astounding and it makes a person frightened.

What I would like to talk to you about today Mr. Chairman—two very quick specific items. One is the fact that Mrs. Smith indicated that these children with IV related illnesses have now entered the public school and I was talking to teachers here in New York City last year and they said that they have now gotten these children into the public schools and they don't know what to do with them. They call them all off the wall children so what is happening to these children is that they are being sent to the corner of a room or the back of the room so they are not learning anything, so we are talking about a whole generation of lost children because if they have these emotional problems that have been described, that is related to this type of illness, what type of special training are we going to give these teachers so that they can deal with these children—not necessarily putting them into special education—

what kind of support services could we provide for that parent? And I would just like to say to the educators and the social workers who are here today, please be aware that this is what is happening and these children are being stereotyped already.

Also, when I spoke to some of the directors in the day care program, they said, "Mary, why go to the Board of Education? We are now getting these children in the day care program, in the head start program. We don't know what to do. We try to give them as much love and as much care, but they are disruptive in the classroom, the other children can't learn because the directors and the teachers have to give so much of their attention to these little children." So, I certainly will take some of this information back to my agency and suggest to them that we do a survey to find out how many children are we talking about, do we have special monies that we can train these teachers? We know there is a certain section of Brooklyn, a certain section of the Bronx, where these things are most prone to happen and the children are in a particular school area, so I think it is up to us, the public agencies, to work cooperatively with the Board of Education.

I certainly will be working with my friend Sara Smith to find out more about some of the information that she gave us and have her come in to talk to some of my colleagues because it is very serious. We can't let these little children who through no fault of their own, who happen to have AIDS, so that this happened to.

And just one last point to the educators and the social workers. There is a group of people out there and this is a phenomenon that is happening and I keep talking to people about it so finally we are beginning to put this on the drawing table. We now have grandparents who are the primary care takers of these children because their parents have either left the homes, they might be in the hospital for AIDS and I just heard over the radio last week and I couldn't believe it—in the paper rather—there are 20,000 orphaned children in New York City whose parents have died from AIDS, 2,000 preschoolers. When I read it I said, "Gee, this must be for the whole state or the whole nation." I went back and no, it is right here in New York City, 20,000 orphaned children. And what is happening—some of the grandparents are becoming the foster grandparents, some are just becoming the legal guardian, and I see these women older and older coming in the reception area to be certified at my office. They must go to take these two, three, one child, children, to a day care center, then go to work, come back home to the day care center, pick the children up, and go home and cook and twice a year we have them come to my office way downtown Brooklyn dragging these little children with them and I say to my colleagues that we are going to have a new category of abusers. These parents are going to start abusing their grandchildren. I see how they treat them in the reception area. I am in the bathroom with them and I talk to them, and it is very hard for a 65 or 70 year old woman to take care of these little children. One family day care director said, "Mary, it is the great-grandparents in my center who are taking care of these little children because the grandmother is not in the home and the mother is not in the home."

So, I hope that when these persons get to the Board of Education, that we can provide some kind of support system for them, because

there is no support system for that whole category and I have been telling my agency that we need to do more too because we know who they are. The directors can identify who these parents are and try and give them some kind of help. Thank you.

Chairman OWENS. Thank you. Thank you all.

[Whereupon the hearing was closed at 5:05 p.m. at the call of the Chair.]

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